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Urban Affairs Committee
February 21, 2017

[LB262 LB489 LB579 LB597]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 21, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB262, LB489, LB579, and LB597. Senators present: Justin Wayne, Chairperson; Matt Hansen, Vice Chairperson; Sue Crawford; Sara Howard; Tyson Larson; Dan Quick; and Merv Riepe. Senators absent: None.

SENATOR HANSEN: All right. Good afternoon, everyone, we'll go ahead and get started. Good afternoon and welcome to the Urban Affairs Committee. My name is State Senator Matt Hansen; I'm the Vice Chair for this committee, representing District 26 in Lincoln. Our Chairman, Justin Wayne, is introducing a bill in Agriculture today, so I'll be conducting the hearing until he can arrive. We'll start off by having members of the committee and committee staff do self-introductions, starting on my right with Senator Riepe.

SENATOR RIEPE: I'm Merv Riepe, I represent District 12, which is Omaha, Millard, and all of Ralston.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR QUICK: Dan Quick, Grand Island, District 35.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, District 45, which is eastern Sarpy County.

ANDREW NORTHWALL: Andrew Northwall, committee clerk.

SENATOR HANSEN: Thank you. And we also have committee members Senator Howard and Senator Larson, and we'll make a note of them when they arrive. Joining us today, also assisting the committee today, are two pages, and we have new pages today. We have Alexi Richmond, who is from Milwaukee, and is a political science and Spanish major at UNL; and Marilyn Synek, who is from Kearney, and is a political science and multimedia major at UNK. This afternoon I believe we'll be hearing four bills and we'll be taking them up in the order listed outside the room. On each of the tables in the back of the room you will find blue testifier sheets. If you are planning to testify today, please fill out one and hand it to Andrew when you come up, this will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during the bill's hearing. If you do not wish to testify, but would like to record your position on a

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bill, please fill out the pink sheets also in the back of the room. We would ask that if you have any handouts that you please at least 10 copies and give them to the page when you come up. If you need additional copies, the page can help you make more. Testimony for each bill will begin with the introducer's opening statement, after that opening statement we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish. We ask that you begin your testimony by giving us your first and last name and also spelling them for the record. That helps us as committee staff, as well as our transcribers office. We'll be using a four-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light will serve as a one-minute warning, and the red light is the indication your time is up and we'll ask you to wrap up your thoughts. With that, I would remind everyone, including senators, to please turn off your cellphones and put them on vibrate. With that, we will begin today's hearing. Senator McDonnell, welcome.

SENATOR McDONNELL: Thank you, Vice Chairman Hansen and members of the Urban Affairs Committee. I'm State Senator Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l, representing the Legislative District 5 in south Omaha. I'm introducing LB579, which will put a sunset on all new occupation taxes within the cities of the metropolitan class. The bill came from my time knocking doors and talking with constituents, this is a campaign porch promise and the concern was a lack of transparency regarding occupation taxes. The purpose of LB579 is to provide accountability and transparency between the city and the citizens of that city. LB579 only impacts cities of the metropolitan class, that classification is for cities with a population of 300,000 or more. Currently, Omaha is the only city that qualifies as a city of the metropolitan class. There is also a zero fiscal impact to the state of Nebraska. At present, in cities of the metropolitan class, if an occupation tax is imposed, there is no end date. The voters have no input on how long that occupation tax shall be in place. LB579 imposes a sunset of 12 years on all future ordinances on occupation taxes. Any ordinance authorizing an occupation tax imposed on or after the effective date of LB579 shall terminate on December 31, 12 years after it is imposed, unless extended by a vote of the people. The city council shall order the submission of the questions by submitting a certified copy of the resolution proposing the continuation of the tax to the election commissioner no less than 50 days prior to the municipal election. The question of whether to extend an ordinance authorizing an occupation tax can only occur every other odd-numbered year. That means during the city municipal elections. Should the city council decide not to submit the question of continuation, the occupation tax would automatically terminate. LB579 is not retroactive, any current occupation taxes imposed by the city are exempt from this bill. This also includes any occupation taxes that might be subject to a rate change. However, should the city decide to get rid of a current occupation tax but then decide to reinstate that occupation tax, that would be considered a new ordinance establishing an occupation tax and be subject to the sunset requirements set forth in LB579. I have worked with the city council to draft language for an amendment to clarify the language. The drafted

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amendment, AM298, is in your committee books. Also in the amended language the sunset date has been move back to 12 years from the original 4 years. Moving the sunset back grants the city more time to educate the voters. This bill does not restrict the ability of the city to impose ordinances authorizing occupation taxes to help with the city budget, but it does help provide transparency and to give the voters a voice and a choice when it comes to occupation taxes. Thank you and I will try to answer any of your questions. [LB579]

SENATOR HANSEN: Thank you, Senator. Are there questions for Senator McDonnell? All right, seeing none, are you planning on closing? [LB579]

SENATOR McDONNELL: Yes. [LB579]

SENATOR HANSEN: All right. [LB579]

SENATOR McDONNELL: Thank you. [LB579]

SENATOR HANSEN: Thank you. All right, I'll invite up the first proponent testifier. And I'll note for the record that Senator Howard has joined us. Welcome. [LB579]

SENATOR KRIST: Senator Hansen, members of the Urban Affairs Committee, my name is Bob Krist, B-o-b K-r-i-s-t, I represent the 10th Legislative District in Omaha, northwestern part of Douglas County, and the city of Bennington. And I'm here in support of both the concept and the reality that this bill will present. I believe that any time there's an occupation tax that's put into place that the voters should, and in this case will, have the ability to confirm its existence going forward in a periodic basis. More importantly though, I'm here I think, besides my support of Senator McDonnell's bill, is to remind you, this committee, and to remind legal counsel to go through with you what happened in 2014 with LB474. LB474 was a bill that was created or was necessary and I introduced, it was signed into law by the Governor, that actually identified that act by the city of Omaha and essentially putting an occupation tax on tobacco. Now you say, why is that a bad act? Well, because you are the reason that they have the ability to tax and you control which taxes you give them in order to impose. And tobacco and alcohol and fuels are not part of that structure. They did this in the effort to fund the UNMC build out and some benefactors within the Omaha area needed this public/private partnership in order to go forward with the building. As Senator McDonnell's bill did and my bill did, LB474 in 2014, it is not retroactive. But we negotiated to a point where we would not dislodge or interrupt that fund-raising effort and the build out of UNMC if they put a sunset on that particular bill. So when that goes away by sunset, 2019, they will no longer, by LB474, have the ability to put any kind of occupation tax on those things that only the state can tax. I know that that is a bit confusing maybe, but I'm sure that legal counsel can give you the background even more in-depth. And as

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you pull up LB474 on your gadgets you'll see, from 2014, you'll see the detail of which I talked. I think it's important for us, as we heard many times, we have put bills into place that will give tax exemptions, will give special permission, will give special notice for businesses to come in, and yet, we seem to lose track of all the things that we have done and potentially what the cities have done. Occasionally, legislative oversight is required to make sure that we haven't given away the farm to the point where we can do the citizens' business. And I think that same thing is necessary at the local government level. Senator McDonnell's bill will do that, it will put a safeguard in place whereby the citizens, being their own careful watchdogs, will be able to analyze those occupation taxes that are put into place and potentially stop them in their tracks or continue, depending upon the needs. With that, I thank you for your time and I'll stand for any questions. [LB579]

SENATOR HANSEN: Thank you, Senator. Are there questions? Senator Riepe. [LB579]

SENATOR RIEPE: Thank you, Chairman. Senator, thank you for being here. One of the questions I have when I look through some of the correspondence, city by city that seemed to be opposed to it, essentially, because it reduces their flexibility. Is that your sense? [LB579]

SENATOR KRIST: I think what they're telling you is that they have to build their budget and not knowing whether they would come to the end of the taxation or fund...resource stream, they would have to shift their budget and shift their focus. But I think that analysis, in my opinion, is helpful periodically to make sure that it's not a steady stream of taxation that continues to allow them to spend. And I think, Senator, most of those municipalities, no matter what class, are very frugal about the way they spend money. But occasionally, as we must do in our own budgets, say is it necessary that we continue the rate of spending that we have? [LB579]

SENATOR RIEPE: Thank you. [LB579]

SENATOR KRIST: You're welcome. [LB579]

SENATOR HANSEN: Thank you. Senator Crawford. [LB579]

SENATOR CRAWFORD: Thank you. And thank you, Senator Krist, for being here to provide that historic perspective. Our legal counsel did also include in our notes the LB745, which passed in 2012, which had thresholds... [LB579]

SENATOR KRIST: Right. [LB579]

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SENATOR CRAWFORD: ...at which...that would trigger an election requirement. It's understanding I guess that under those thresholds there are some occupation tax that might exist and only if they reach a certain threshold would it kick in to provide that requirement for the election. And I wondered if you wouldn't mind commenting on that rationale or logic for those thresholds from that perspective as we think about that as a possibility in terms of our conversation about sunsets. [LB579]

SENATOR KRIST: Was that Senator Fischer's bill? Okay, I think that was very well thought out and it was put in place at a time when it was genuinely needed. And that is that, you know, obviously there are some things that, as I mentioned with Senator Riepe's question, there are things that need to be funded, a steady stream of funding needs to be there; but once you go over that amount that you're obligating in terms of a threshold, you really need to have some oversight. And if not the council or the mayor's office, then who? And I think it's the citizens, so I think...actually I think we researched Senator Fischer's bill when we actually put together LB474 as well, so that would be my comment. I think thresholds are a good thing, but I also think that even with the threshold after a certain period of time we need to kind of take another snapshot to see where we are, if we want to continue the level of spending that we've entered into. [LB579]

SENATOR CRAWFORD: Thank you. [LB579]

SENATOR KRIST: Thank you. [LB579]

SENATOR HANSEN: Thank you. Are there any further questions? Seeing none, thank you for coming down to Urban Affairs. [LB579]

SENATOR KRIST: It's always a pleasure. Thank you very much. [LB579]

SENATOR HANSEN: Thank you. All right, we'll take the next proponent testifier for LB579. [LB579]

JIM ROGERS: Good afternoon, Vice Chairman Hansen and members of the Urban Affairs Committee. I'd also like to take a quick second to thank the staff of the committee and the supporting staff of all the senators. I've been in your shoes supporting an elected official and I know how tough it is, so thank you for doing that. As a current city council candidate in Omaha's 4th district, I have interacted with many voters about a multitude of issues. One issue that keeps popping up from voters across the political spectrum is transparency in government. I cannot count the number of times that Omahans have asked what their tax dollars are being collected for

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during my time going door to door. As an example of an occupation tax for instance is the restaurant tax. Folks know it is being collected, but to what end is not entirely clear. I had to explain the inception of the restaurant tax to numerous voters and as the dollars being collected far exceed the original intent. Their question to me, as someone at their door, is always: what is the rest of the money being used for then? People like to know that their government is accountable and looking out for them. If given the opportunity for choices of continuing an occupation tax I believe that you will come to find that there would be overwhelming support from the community. If government officials can lay out clear objectives of what the specifics are and goals to be accomplished, this would create a greater bond of trust between our local government and our community. I ask that you give LB579 consideration to move to the floor and continue the discussion on ways to make government more accountable and transparent. I believe you will find a large number of our people feel the same. Thank you, and I will try to answer any questions. [LB579]

SENATOR HANSEN: Great. First thing, could we just have you restate and spell your name for the record? [LB579]

JIM ROGERS: Absolutely. Jim Rogers, J-i-m R-o-g-e-r-s. [LB579]

SENATOR HANSEN: All right, are there any questions? Senator Crawford. [LB579]

SENATOR CRAWFORD: Thank you, Senator Hansen. And thank you, Mr. Rogers, for being here. [LB579]

JIM ROGERS: Absolutely. [LB579]

SENATOR CRAWFORD: So when you are going door to door, voters are bringing up the restaurant tax to you as an elected official, is that correct? [LB579]

JIM ROGERS: Not in my current capacity as a candidate, but yes. [LB579]

SENATOR CRAWFORD: I mean as a candidate, I meant. [LB579]

JIM ROGERS: Yes, ma'am. [LB579]

SENATOR CRAWFORD: So do you think then that voters recognize that as an elected official you have something to say about that restaurant tax, if you were elected? [LB579]

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JIM ROGERS: I believe they do. If in an elected capacity, and I'm the person that's interfacing with them at their doorstep, I believe that they do. And what they are asking for or asking me is for accountability. [LB579]

SENATOR CRAWFORD: Right. [LB579]

JIM ROGERS: And I believe that something like this would offer that accountability for voters to be able to look at what is being done by local government there and being able to have the option of continuing or ceasing. [LB579]

SENATOR CRAWFORD: In the current system, doesn't the campaign provide an opportunity for that as well? People are asking you that question because they know you will be a person that will be in a position if elected to make that choice. [LB579]

JIM ROGERS: Absolutely. [LB579]

SENATOR CRAWFORD: And so they're asking...so I think it's interesting that they are aware and asking you in that position about what is this tax being used for and should we continue it. [LB579]

JIM ROGERS: Absolutely and, you know, if you give good definition, which I try to provide to the folks at the doorstep, you know, they're understanding. Like they understand that we need to pay for our infrastructure and for our police and fire and on down the line for the services that the city provides. But they want to know to what end. [LB579]

SENATOR CRAWFORD: Which is a fair question, absolutely. [LB579]

JIM ROGERS: Yeah, I think it absolutely is. [LB579]

SENATOR CRAWFORD: Thank you. [LB579]

JIM ROGERS: Thank you. [LB579]

SENATOR HANSEN: Thank you, Senator Crawford. Senator Riepe, did you have a question? [LB579]

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SENATOR RIEPE: Thank you, Senator Hansen. Yes, under the theory that any good tax is a tax on someone and not me. (Laughter) That said, one of the appeals of say a restaurant tax because I think that's the primary focus here, is that many of this...much of this tax is paid for like hotel taxes by people coming into town for a convention or people coming from Council Bluffs into. So it's not necessarily all that tax, I don't know, but do you have a percentage that would be metropolitan, Omaha-based of the tax...just anything rough? [LB579]

JIM ROGERS: I do not have those figures, but I can tell you just from my interactions with voters at the door, and I've had people bring this us also where they talk about people that commute into Omaha and they say, you know, they're using our roads and coming in here and whatnot, but they're not helping us offset our infrastructure costs. So when I do talk about something like when they bring up the restaurant tax and say one of the things that is convenient about that is tax them, not me. But that certainly helps alleviate the load upon the residents of Omaha. [LB579]

SENATOR RIEPE: I just...I haven't seen that number, I was just curious. Thank you very much. [LB579]

JIM ROGERS: I have not either, but that's good question. [LB579]

SENATOR RIEPE: Thank you. [LB579]

SENATOR HANSEN: Thank you, Senator Riepe. Any further questions? [LB579]

SENATOR RIEPE: No, sir. [LB579]

SENATOR HANSEN: Seeing none, thank you for coming down. [LB579]

JIM ROGERS: All right, thank you. [LB579]

SENATOR HANSEN: All right, we'll take our next proponent. Welcome. [LB579]

JEFF LAMPE: Good afternoon, Vice Chairman Hansen, members of the Urban Affairs Committee. My name is Jeff Lampe, spelled J-e-f-f L-a-m-p-e, I'm here to testify in support of LB579. I'm a native Nebraskan, an Omaha fire captain for station 34, and the owner of the Old Mattress Factory Bar and Grill. I was honorably discharged from the United States Marines Corps in 1993 and shortly before I started my own venue, serving as owner and operator for

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nearly two decades. As a restaurant owner, I've experienced occupation taxes imposed by the city with consultation and those taxes continue without my voice, without any voice by the citizens. I understand that the amendment has been drafted to extend the sunset period for 12 years. While I personally would like to see a shorter sunset, I recognize the importance of a longer sunset to allow the city more time. Occupation taxes are an important part of a city's ability to create and fund its budget. However, those taxes have a large impact on citizens of that city and after a certain period of time those citizens should be able to have a voice regarding whether or not the city is properly utilizing those taxes in the best interests of the city and its residents. I can answer any of your questions. [LB579]

SENATOR HANSEN: Thank you. Are there questions for Mr. Lampe? Seeing none, thank you for coming down. [LB579]

JEFF LAMPE: Thank you. [LB579]

SENATOR HANSEN: All right, next proponent for LB579. Welcome. [LB579]

MINA DAVIS: Good afternoon, Vice Chairman Hansen and members of the Urban Affairs Committee. My name is Mina Davis, and that is spelled M-i-n-a D-a-v-i-s, and I am a proud resident living in Millard in Omaha. Today I am testifying in support of LB579 because I firmly believe the citizens of any city ought to have more say about laws that affect their day to day activity, that governing bodies meant to serve on behalf of the citizens are allowed to be more effective in how they respond to their needs, and to have a process in place that holds all citizens and governing bodies accountable to their community's needs. LB579 allows for citizens in a municipality, as defined in this bill, to engage in a meaningful and direct dialogue, especially on the subject of occupation taxes. Subsection (b) empowers a citizen to use their vote to decide if such a tax fits with their community's needs. More importantly, subsection (b) makes certain that each time such a tax is proposed that the measure itself is presented fairly and made available to all interested parties. This is crucial in making sure that the affected parties have the necessary amount of time to voice their concerns. LB579 empowers the citizens to fully participate in a meaningful way when it comes to addressing how an ordinance that authorizes an occupation tax may affect their community. LB579 also allows a city council to make decisions that are a best fit to their constituents' needs. Allowing a city council to effectively govern fairly and still represent their constituents' needs ensures less problems in the future. Council members are able to engage the voters in a fair way that allows for them to address unique needs of the differing groups that may be affected by a passing of such an ordinance. LB579 does not inhibit the ability of the municipality to address the funding of the city's needs through occupation taxes. However, it does require more transparency and accountability. LB579 creates a mechanism in which the people and the city council can review and think carefully about the constituents' needs.

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Subsection (b) addresses how a city council may introduce the question to the citizens, allowing time for a city council to debate in public view, engage constituents they represent in a meaningful dialogue, and to propose a certified copy of the resolution to the election commissioner at least 50 days before the election and put it on the ballot for the voters is a very transparent and fair way of making sure all parties involved are allowed to see exactly how the city council wants to address the question. This allows a city council and its constituents to effectively reach a solution in a fair manner. Once again, I implore that I do voice my support for LB579 because citizens deserve to be a part of the conversation on matters that affect their day to day activity, that a city council may be able to fairly and effectively address their constituents' needs, and allow citizens and city councils to address their community's needs. Moving LB579 out of committee and onto the floor will mean empowering the voters to make the best decisions for their communities, for a city council to effectively govern, and also ensuring a transparent process when it comes time to address the details. Thank you. [LB579]

SENATOR HANSEN: Thank you. All right, are there questions from the committee for Ms. Davis? Seeing none, thank you for coming down to testify. [LB579]

MINA DAVIS: Thanks. [LB579]

SENATOR HANSEN: All right, we'll take the next proponent. Are there any more proponents? All right, seeing none, we'll move on to opponent testimony. [LB579]

STEVE CURTISS: Good afternoon, Senator Hansen and members of the committee. My name is Steve Curtiss, C-u-r-t-i-s-s, and I'm the finance director for the city of Omaha. And Senator Riepe, I believe the statement I always heard was: the only good tax is the one another guy pays. But I think it's pretty similar. The city opposed LB579, which restricts future occupation taxes only in the city of Omaha, because we feel that intervention by the state isn't really required. The city currently has occupation taxes including hotel, motel, OPPD, telephone, restaurant or drinking places, the tobacco tax, and the vehicle rental tax. These tax dollars, as well as the property and sales tax revenue go primarily into the general fund. And as you may know, our charter in section 508 prohibits us from segregating any dollars for specific purposes within the general fund. The restaurant tax was originally imposed and assumed that it would produce about \$14 million, \$13.5 million of that was to go to the police and fire pension fund, with the remainder going into the general fund. As we all know, fairly early in its life it got to about \$25 million, I think, in the prior administration's days, and other things like police, fire, and equipment all have used up the rest of that. As far as transparency, our budget is on-line, it's on-line well prior to the year beginning. So anybody that's interested to see where the city intends to spend their money, it's all based on-line. Our charter does require that pension coverage usage related to this statement be substantially equal in section 6.09 of our charter and that's why the

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city doesn't unilaterally dump a lot of money into the pension. The additional revenues for the restaurant tax that are generated go into the general fund and pay for things like firefighters, additional police, equipment, roads, a lot of other things. To ensure the full transparency, like we said, the budget's been on-line for a number of years and our actual checkbook will be on-line, just as the county's is, we believe within the next few weeks. It's something they've been working on since 2015. One of the things that this bill could inadvertently do is affect LB562, which is a developer occupation tax that was approved by this body. We have three or four major developers who are considering using that type of funding today. We believe all those projects could be in jeopardy if this type of funding isn't available to them. There is a right of referendum for citizens inside of the city, so if there is a tax they can use their right of referendum to call and have a conversation about a particular issue. So with that, I'd be happy to take any questions. [LB579]

SENATOR HANSEN: Great, thank you. Are there questions for Mr. Curtiss? Senator Crawford. [LB579]

SENATOR CRAWFORD: Thank you, Senator Hansen. And thank you for being here. So tell us a little bit, the right of referendum for a particular tax, is that in the city charter? Is that... [LB579]

STEVE CURTISS: I believe the right of referendum exists for any item other than for a tax that's specifically retiring a bond. [LB579]

SENATOR CRAWFORD: Okay. [LB579]

STEVE CURTISS: But we could get you...I'm not the legal expert. [LB579]

SENATOR CRAWFORD: Sure. [LB579]

STEVE CURTISS: We could probably get you more specifics on that particular topic. [LB579]

SENATOR CRAWFORD: All right. And I wanted to just clarify, you're saying that the city charter itself does not allow you to indicate here's...where we're spending property taxes, here's where we're spending sales taxes. [LB579]

STEVE CURTISS: It doesn't allow you to take a general fund source and then say we're going to spend so much here in that particular...the remainder of that particular tax will go into this other part of the general fund. It all goes into, by charter, into the general fund and is used to fund everything in the general fund. [LB579]

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SENATOR CRAWFORD: So you can designate the part that goes into the pension and say this is from the restaurant tax? [LB579]

STEVE CURTISS: No, you actually cannot do that. [LB579]

SENATOR CRAWFORD: So when you're saying about \$3.5 million shores up the pension fund. [LB579]

STEVE CURTISS: It was \$13.5 million at the time and that was a perceived shortfall in the city. So that comes directly out of the general fund, but there is no direct connection to the restaurant tax. [LB579]

SENATOR CRAWFORD: That money directly going to... [LB579]

STEVE CURTISS: Correct. It does not directly go. [LB579]

SENATOR CRAWFORD: All right. Okay, thank you. [LB579]

SENATOR HANSEN: Thank you, Senator. Senator Riepe. [LB579]

SENATOR RIEPE: Chairman Hansen, thank you. You know, the letter from Mayor Stothert that the restaurant tax was originally imposed to generate \$14 million, can you tell us how much it now generates? [LB579]

STEVE CURTISS: Yes. [LB579]

SENATOR RIEPE: Because I believe it's significantly over that. [LB579]

STEVE CURTISS: Yeah, at the beginning within its first year it was already at \$25 million. Because as I understand it, I wasn't there at the time, but it was a guess, and now it's close to \$30 million to \$32 million. [LB579]

SENATOR RIEPE: So it really didn't work as much of a deterrent for people going out to eat? [LB579]

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STEVE CURTISS: No, I think the studies have shown, and I think a question you were asking earlier was what's that percentage that are outside the city. And we currently use 30 percent are coming from somewhere outside the city limits of Omaha. [LB579]

SENATOR RIEPE: Okay. You tell us...she states in this letter, it says \$13.5 million to shore up the police and fire pension fund. I don't believe that \$13.5 million in fact shored it up. [LB579]

STEVE CURTISS: I think what they were talking about was the unfunded pension liability, the actuarial required liability each year. And it's suggested that each city or anybody who's got a pension try to fund their what's called the UAL, the unfunded actuarial liability, and I think that amount was to make sure that we were funding our actuarial liability. Both pension funds now at this time are projected to be fully funded within about 20 to 23 years. Which, by the actuarial standards, anything around 20 they're fairly happy. [LB579]

SENATOR RIEPE: So do you think the city of Omaha would be supportive of having this sunset at the time when the police and fire pension fund reaches an 85 to 90 percent of full funding? [LB579]

STEVE CURTISS: Only if they could identify other things they weren't going to do, like police, fire equipment. I mean, like I said, it goes into the general fund so they would have to decide what they're going to cut and communicate that to citizens I suppose. [LB579]

SENATOR RIEPE: One other last question, if I may. [LB579]

SENATOR HANSEN: Of course. [LB579]

SENATOR RIEPE: And that would be a sea-old story of if we give up \$25 million here, can we take the \$25 million out of operations or do we have to look at some other place? I'm not trying to do the city's business, but you have to find that \$25 million someplace else if it's not built into efficiency. Where would that be? [LB579]

STEVE CURTISS: I'd hazard to speculate where we might do that. But as you might suggest, if our general fund budget is around \$370 million, if \$25 million disappeared that's, you know, 6 or 7 percent. It would be a fairly healthy round of cuts somewhere to try to shoehorn the city into that size of a budget. [LB579]

SENATOR RIEPE: May I have one more? [LB579]

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SENATOR HANSEN: Of course. [LB579]

SENATOR RIEPE: How long would you need in advance to have the vote so that you could do your budgeting and your cash flow (inaudible)? [LB579]

STEVE CURTISS: That's a very good question. Right now we're budgeting, we're beginning to budget for 2018. If the vote wasn't until the fall, we wouldn't be able to include that as a revenue source. So we would need it probably two years in advance. [LB579]

SENATOR RIEPE: I'm sorry, how long? [LB579]

STEVE CURTISS: Probably two years in advance... [LB579]

SENATOR RIEPE: Two years out? [LB579]

STEVE CURTISS: ...so that we could budget and make sure that that revenue source was approved. And the other issue we'd have, we would never be able to bond on that because I think a bond rater wouldn't let you bond out anything that they can't foresee as lasting anything longer than a set amount of time. Particularly if you're trying to do 20- to 30-year bonds, which we often do. [LB579]

SENATOR RIEPE: So it would have an impact on the bond rating possibly? [LB579]

STEVE CURTISS: Potentially, if it was a designate source which you couldn't... [LB579]

SENATOR RIEPE: Thank you, Mr. Chairman. [LB579]

SENATOR HANSEN: Thank you, Senator. Any other questions? Senator Crawford. [LB579]

SENATOR CRAWFORD: Thank you. I wondered if you would speak to what the conversations have been in the mayor's office and with the mayor and city council about whether to retain the restaurant tax. So what question is the extent to which this is a conversation that is before the voters because the mayor's office is talking about it, city council is talking about it. [LB579]

STEVE CURTISS: I don't know if I know exactly what you're looking for in that answer. I know there is a lot of discussion about it. I think, as Senator Riepe pointed out, if it were to go away, it's a general fund source at this point, so some replacement or cuts would be required. I know

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the mayor has reduced property tax twice in the last three years in lieu of the restaurant tax. I think partly because of the 70-30 conversation and partly because the property tax side of that is 100 percent paid for by Omaha citizens. So I know it's just like all taxes, it's a constant source of conversation. But beyond that, I don't know if I have anything else to share. [LB579]

SENATOR CRAWFORD: Thank you. [LB579]

SENATOR HANSEN: Thank you, Senator Crawford. Any final questions? Seeing none, thank you for your time, Mr. Curtiss. [LB579]

STEVE CURTISS: Thank you. [LB579]

SENATOR HANSEN: All right, we'll take our next opponent. Welcome. [LB579]

LYNN REX: Thank you, Senator Hansen, members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appear here today respectfully opposing this measure. We understand that it only impacts the metropolitan class, which is Omaha, in its current form. We do have issues not only with that, but also its application, should one decide to extend it to other cities as well. This is not a case of first impression, as has been indicated before, basically Senator Fischer in recent history in 2011 passed LB165 on the Telecommunications Occupation Tax; in 2012 it was LB745, another one of her bills. Hours and hours, I would bear to say weeks, spent negotiating on those measures, and Senator Lathrop played a critical role in the negotiations on LB745. And then of course as Senator Krist said, he also was the one responsible and did the negotiations on LB474, which passed...introduced in 2013, passed in 2014. I do think that what's important to note is that occupation taxes now have thresholds in place, due to passage of LB745 in 2012, you have those before you on page 5 of the bill, lines 13-18. Actually I misspoke, 13-21. So on page 5, lines 13-21, you have essentially what most of the provisions were from LB745 that have the various thresholds. So if you have a new tax or existing tax, basically that is going to be each new occupation tax or annual revenue raise by the increased rate. Now that you're increasing the rate of an existing tax then you have to go to a vote if the money raised would exceed \$6 million in Omaha, line 17; \$3 million for primary class cities, that's only Lincoln; and for first class cities, \$700,000; and second class cities and villages, \$300,000. As was noted previously, Section 18-2528 does have the right of referendum. And that is a limited right when you look at it. I mean, there are, basically, if you're going to bond with this for example and you've got OTs that are used for that, for example. That's one of the things that we're concerned about with LB562. I know the city of Omaha is looking and there are developers looking at usage of LB562, which was Senator Greg Adams' first priority bill as a matter of fact, to basically deal with enhanced employment areas. And that enables folks to have basically an occupation tax kind of imposed

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on themselves if you will. That's what's happening out in South Pointe, it's happening in Lincoln, Nebraska. It's happening in other cities as well. I think Sidney, Nebraska, was actually the first city that did one. So when you have bonding, obviously you're not going to have a right of referendum, but there are provisions in 18-2528 that if you choose to look at those do give you some options as voters. So and of course there's always that idea that you can talk to your city council members and your mayor and your elected officials. I do respect what Senator McDonnell is trying to do here, I do understand the need for transparency. We do think, however, that Omaha's budget is transparent. And with that, I'd be happy to respond to any questions that you might have. [LB579]

SENATOR HANSEN: Thank you. Are there questions? Senator Riepe. [LB579]

SENATOR RIEPE: Thank you, Senator Hansen. Thank you, Ms. Rex, for being here. The question that I have is other cities that are impacted by the...now I'll focus on the restaurant tax, just for simplicity for me. I know that Ralston, for example, now has a restaurant tax and generates about \$300,000 a year for that, which is important to them. I don't know that there are other cities and towns within your league that have restaurant taxes. [LB579]

LYNN REX: Yes, they do. And I can verify this with the finance officer for the city of Norfolk, who is here for another bill, but I am quite certain the city of Norfolk has one. I know other cities do as well, I think Kearney does. [LB579]

SENATOR RIEPE: (Inaudible). [LB579]

LYNN REX: I can verify that and get back to you, just so I'm not providing you information that's not accurate. [LB579]

SENATOR RIEPE: Did they all follow Omaha? [LB579]

LYNN REX: Pardon me? [LB579]

SENATOR RIEPE: Did they all follow after Omaha? [LB579]

LYNN REX: I don't believe so. [LB579]

SENATOR RIEPE: Oh, okay. [LB579]

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LYNN REX: But I'll need to verify that. [LB579]

SENATOR RIEPE: I'm just curious. [LB579]

LYNN REX: And again, in deference to Senator McDonnell, this bill in its current form only applies to metropolitan-class cities, not anyone else. But we still oppose it on that basis alone. [LB579]

SENATOR HANSEN: Okay. Thank you, Senator. Any further questions? Seeing none, thank you, Ms. Rex. [LB579]

LYNN REX: Thank you very much. [LB579]

SENATOR HANSEN: All right, any other opponents of the bill? Seeing none, is there anybody wishing to testify in a neutral capacity on LB579? Seeing none, Senator McDonnell, we welcome you to close. [LB579]

SENATOR McDONNELL: Thank you. I'd like to thank all the testifiers today. Cities have a responsibility to their citizens and generating funding for an annual budget is a necessary part of their responsibilities. But the citizens have the right to know how their tax dollars are being spent within the city's budget. LB579 is a bill meant to provide transparency and communication between the city and their citizens. Thank you. [LB579]

SENATOR HANSEN: Thank you. All right, are there questions? Oh, before you go, are there questions for the senator? All right, we'll let you off the hook. [LB579]

SENATOR McDONNELL: Thank you. [LB579]

SENATOR HANSEN: (Exhibits 1, 2, 3, 4, 5, 6) Thank you. Before we close the hearing, I'll read into the record some letters. We have a letter of support from the Nebraska Retail Federation and the Nebraska Restaurant Association. We have letters in opposition from the city of South Sioux City, a letter of opposition from the United Cities of Sarpy County, a letter of opposition from the Greater Omaha Chamber of Commerce, a letter of opposition from Mayor Jean Stothert of the city of Omaha. And a letter in the neutral capacity from Nathan Leach. And with that, we'll close the hearing on LB579. All right, and that will take us to our hearing on LB262 of Senator Groene's. Welcome, Senator. When you're ready. [LB579]

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SENATOR GROENE: (Exhibits 10, 11, 12, 13) Thank you, Vice Chair Hansen and members of the Urban Affairs Committee. As you can see behind me, we have a lot of money involved here, a lot of tax dollars involved here or they all wouldn't be showing up. LB262, just to give you a little background we had some handouts, I hope you have them. All three of these bills I might take a little time on this first one because they're all related to the three bills that I'm introducing. First, I'm giving you exhibit 1, which is Article VIII-12 of the state constitution on tax increment financing. It was put into the constitution by the people of Nebraska. And I'm going to hit on an issue of two words: "and" and "or." TIF, in order to use TIF, it has to be substandard and blighted, it's in the constitution. You and I as senators cannot change that. In redevelopment law, that was in 1951, the Nebraska Legislature enacted the Community Redevelopment Law to allow municipalities to create community redevelopment authorities by ordinance and create development plans. In order for the authorities to be able to purchase and develop property through development plans, the Legislature authorized the authorities to issue revenue bonds and asked municipalities for funding to support the development plans, those municipalities themselves being authorized to transfer general funds to the authorities, levy taxes, and sell bonds to fund the authority's request. And that was 1951. In 1978, Nebraska voters enacted Article VIII-12 of the Nebraska Constitution, allowing "For the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property in a redevelopment project," emphasis added. A city or village may use tax increment financing to enable the city to confiscate for up to 15 years all property tax of all taxing bodies in excess of the previous year's assessed valuation prior to the project's completion. TIF is not redevelopment law, it is one option of funding redevelopments in a certain instance--urban renewal. That's how it was created, that's why it was created. In the '70s and '60s, remember the slums burning? Cities were expanding like a doughnut, the old downtowns were falling apart across the nation, tax increment financing was created to encourage developers who were already made the economic decision to build in a community to build downtown in the old urban area, instead of on the outside corridors. You will hear the term "but for," the term "but for" is not in the statutes. The term "economic development" is not in the statutes or the constitution, it's always "redevelopment rehabilitation." You will hear from testifiers about it's our only economic development tool. It better not be any of their economic development tools, because the statutes do not...because that is not the purpose of them. Economic development happens. TIF is to go...is for the city to go to that developer to say, all right Menards, you're coming to North Platte, would you build down here in the old warehouse district instead of out on the edge of town. That's how it was designed and planned. I've read all of the old transcripts, all of the old editorials of the World-Herald and Lincoln Journal Star from the 1970s. That is what it was for. LB262 seeks to clarify that TIF was never intended as a funding tool in association with redevelopment law on vacant land outside of the city, not within a substandard or blighted area is where redevelopment law. TIF was supposed to be used substandard and blighted. Redevelopment law says you can annex in or add vacant land into a redevelopment area and you can also expand into that area. It's substandard. Present statute in law says in Section 18-2103.11 included unimproved land in Nebraska Revenue

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Statutes 18-2103.11, third section, (iii), which states: "more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for 40 years." That's when you can use TIF on blighted, open land. That is in our statutes. It's ignored, it's completely ignored..."for 40 years" and remains "unimproved during that time." Which later on I'll be getting to LB597 about putting some oversight into it, but the State Supreme Court in 1999 had Fitzke v. City of Hastings. The Nebraska Supreme Court stated, "If a private development project is ineligible for tax increment financing because it is located on land which is not blighted or substandard..." remember outside the city it could be substandard in redevelopment law, but by statutes it can't be blighted because it hasn't been in the city 40 years. Therefore, it is not substandard and blighted as the state constitution says. Within the..."it is located on land which is not blighted or substandard within the meaning of the CDL. It logically follows...it's the Supreme Court, "follows that eligibility could not be created by simply incorporating the project site into an adjacent area which has been declared blighted or substandard and revising the redevelopment plan for that area to include the project." It should follow that the provisions of LB262 clarify the court's direction in limiting the land available for TIF financing. Why do they continue to do it? We have no state oversight. The only...what happened in Fitzke v. City, a private citizen went through civil court, spent an awful lot of money for legal counsel, and they won. But since then they said, sue us. Spend your money, go ahead, reaffirm what the State Supreme Court said. They continue to break the law because we have no oversight. Anyway, I also passed out to you the amount of money from the Department of Revenue property assessment division that states over the years how much money has been abated. Or it hasn't been abated, it just hasn't gone to its proper use--our schools, our counties, our public safety have lost out on \$66 million last year in 2015. It was \$60 million in 2014. Ten years ago in 2006, it was \$30 million. It's doubling and quadrupling, it is out of control. A lot of states have reigned it back in. The reason I'm here, I'm not against TIF, we've had good TIFs--ConAgra on the riverfront, the Old Market, the Haymarket, in North Platte there was a Pro Printing and some old houses in the entrance of the old downtown, they tore them down. But it's being abused. It's being used, and I don't blame any developer, I don't blame any business man for the bottom line. I blame city officials, crony capitalism, and lazy economic development directors who peddle it to every developer that comes to town so they can put on their resume they brought somebody to town when they were coming anyway. They were coming anyway, they would have come to the outskirts of town, especially on retail. They come to where the customer base is, they don't come for \$1 million or \$2 million in tax abatement. They come for the customers. The reason I fight this is because I'm up for property tax relief and if we keep allowing people to not pay their property taxes, call them deadbeats, that's who we pay people who don't pay their taxes, and the rest of us pay more for public safety, for our schools. It affects our state aid to education formula by \$30-some million. You take...if 60 percent of all property taxes go to education, you take that times \$66 million, the rest of the taxpayers across the state make that up with their income and sales taxes. You will hear from the folks behind us that they won't build without it. What they are admitting apparently is that their local municipality's property taxes are so exorbitant, so

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exorbitant, that a business can't afford to build there to pay the taxes. That's what they are telling you. If it is so profitable not to pay your property taxes and to be reimbursed with them, your property taxes must be very high. And I think most Nebraskans would agree to that. I also gave you the Fitzke findings, the definition of the blighted in state statutes, where it has to be in the city for 40 years. I always want you to remember when they talk to you there's two portions of the law, the redevelopment law since 1950s and then there's TIF, which is a constitutional provision. That is just one part of redevelopment law, it is a funding source for select situations and we don't do it anymore. TIF is now redevelopment law, nobody builds without it. So you can listen to the testimony behind me, and they would tell you how great it's been, and that the free markets no longer work, and that without government intervention...as President Obama said, you didn't build it, the government did. And President Obama was correct that nobody would build, nothing will happen, unless we abate property taxes. And that's what you're going to hear. But we have to reign this thing in, it's out of control and the rule of law. Do we not follow the present rule of law? All LB262 does is reaffirm existing statutes, existing Supreme Court cases, that's all it does. I would have you ask the people behind me how they justify doing what they do. Thank you. Any questions? [LB262]

SENATOR HANSEN: Thank you. Are there questions for Senator Groene? Senator Riepe. [LB262]

SENATOR RIEPE: Thank you for being here, Senator Groene. Thank you, Senator Hansen. I did take the opportunity to read the AG's letter and I think my first comment would be is, and I don't know that with all due respect for all the attorneys in the audience and at this table, it seems to me there's a lack of understanding that periods can be used occasionally. Some of the sentences go on and on and on and on, picking on attorneys. My question is though in that letter it talks about, and I want to know if your opinion is that these are... [LB262]

SENATOR GROENE: Which letter? I'm not... [LB262]

SENATOR RIEPE: It's dated I think... [LB262]

TREVOR FITZGERALD: Senator, if I could, it's the Attorney General's Opinion you requested. [LB262]

SENATOR GROENE: Yes, all right. That one here. [LB262]

SENATOR RIEPE: It was dated August 15. [LB262]

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SENATOR GROENE: Yeah, the one that agreed with us and then didn't agree with us? [LB262]

SENATOR RIEPE: Yes. [LB262]

SENATOR GROENE: Yeah. [LB262]

SENATOR RIEPE: In there they use such terms as and I quote, reasonably necessary, can be included, essential to redevelopment, and necessary part. So is it your contention that those words are soft and evasive of any restrictions on the use of TIF? [LB262]

SENATOR GROENE: I think it agrees with the State Auditor's audit that it's so ambiguous, some of the language, that the Legislature put in to enact TIF that it could be in the eye of the beholder some. It depends what part of the law you want to go to. If you want to ignore this part and go over here...if you want to go into redevelopment law, it all works. If you go over here into TIF law, it's restrictive. So most people will look, that use it, will look at redevelopment law from the '50s and ignore the laws that were enacted when TIF took effect in 1978. There's two distinct areas of the law, but it's been merged and melded into one, which I don't believe is accurate. And some of the emphasis of these legislation is from...come out of the State Auditor's report also. [LB262]

SENATOR RIEPE: Senator, is your position that it needs to go back to fundamental property tax if you...because when you talk to the people, at least when I talk to people in Omaha in my district, you know, they talk about they've grown dependent upon TIF. It's now developmental tool essential to get stuff done. So they would have to have, in their opinion, an alternative to that. Is it your position that they have to look to taxpayers for bonds and approach it from that standpoint? [LB262]

SENATOR GROENE: Well, we used to look at things, and chambers of commerces used to look at things and say, let's get low property taxes for everybody. Let's not do this divide and conquer, let's not give somebody specialty treatment. Look at the mayor's race in Omaha, take a look at the donations and see how many developers and bond give money to certain politicians. It's crony capitalism. That creates the way TIF is set up right now. It's let's lower the property taxes for everybody to stop that type of behavior. And if you want to be a good citizen, pay your taxes. I could name a half-dozen local businessmen in North Platte who built new facilities, good citizens, never even asked for TIF. They were in blighted areas. Walgreens, for example, came to town on a blighted area and never even asked. Local businessmen built a new tractor, well, that wouldn't be in a blighted area, but if he would have asked for it, he would have TIF, a new tractor dealership. Another one built a battery store. You know what the difference is? They're good citizens, they support their schools, they support their public safety, they pay their property taxes.

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There's a reason we pay them. My fight is let's get property tax relief for everybody, put everybody on the same page. Well, let's just follow the law, let's follow existing law. And we're not doing that right now. [LB262]

SENATOR RIEPE: Thank you, sir. [LB262]

SENATOR GROENE: Look at the court case. [LB262]

SENATOR RIEPE: Thank you, Chairman. [LB262]

SENATOR GROENE: Anybody else? [LB262]

SENATOR HANSEN: Thank you, Senator. Any other questions? Seeing none, thank you for your opening. [LB262]

SENATOR GROENE: I'll try to be shorter on the introductions of the next two. That's about eight o'clock or so. [LB262]

SENATOR HANSEN: All right, we'll move to proponents of LB262. Welcome. [LB262]

MARY JANE TRUEMPER: Hello. I'm Mary Jane Truemper, that's spelled T-r-u-e-m-p-e-r, I'm president of the group called Omaha Liberty Ladies. I'm a licensed realtor in Nebraska, I have a master's in business administration, and my current primary residence is in Douglas County, Nebraska. I'm here in support of LB489, LB262, and LB597. Since they all kind of go together, I'll probably break my testimony up into two or three spots. I found it quite cathartic when I was writing that this morning and so I probably got a little wordy. But it's my understanding that these bills are an attempt to set perimeters around the use of TIF. Bravo, I say to Senator Groene. I currently live in Dundee, part of an area that included the Fair Acres neighborhood, an area that the city of Omaha attempted to designate as blighted in 2011. We were all a little taken aback by this designation and the Fair Acres neighborhood association scheduled meetings. The uproar caused by some of our more influential Omaha citizenry stopped this effort. In 2014, another effort was made to redevelop an area adjacent to Fair Acres neighborhood with a highrise apartment complex. The neighborhood association again met to fight the proposal. What had changed since the first effort in 2011 was an ordinance passed by the city council that now allowed Omaha to apply TIF funding to not only blighted areas, but to areas designated redevelopment zones. I think that Senator Groene spoke to this. Again, the well-heeled citizens of Fair Acres successfully defeated the project and another more agreeable structure was built. I'm here to testify that the efforts by the Fair Acres neighborhood stands alone as the only effort

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that I have seen to successfully defeat a developer's pre-approved plan in my many years of following the Omaha City Council. As a follower of the city council, a majority of the time is spent redesignating areas of the city's master plan to meet the needs of developers and approving TIF financing for those developments. There seems to be no limit to what large development project...excuse me, can be granted the corporate entitlement program known as TIF financing. Any area in Omaha can be labeled a redevelopment zone. We have them now in Millard, Aksarben, Midtown Crossing, Blackstone, and many, many, many more districts. Curiously, this property tax relief largesse does not equally apply to mom and pop businesses that are the backbone of our state. A development near me is one example of TIF. I won't name it, but it was given TIF financing to develop the area near one of the colleges. The project has been one of the most successful in town. Let us agree for a moment that the risk of such a project can be tremendous and that TIF is a development tool that rewards that risk. Had the great success of the first phase of development not occurred, I would warrant that subsequent phases would not have moved forward. Those subsequent phases that have occurred because of the initial success of phase one are developed at a much lower financing risk than the initial development. However, all of the phases are receiving TIF financing. I'm going to stop at that point. I have more to say on this subject, but I do feel like, as Senator Groene said, TIF does seem to pick winners and losers. And since I'm on the losing side, I feel like it is an unfair tax. Thank you. [LB262]

SENATOR HANSEN: Thank you. Are there questions? Senator Riepe. Oh, excuse me, ma'am. We have questions for you. [LB262]

MARY JANE TRUEMPER: (Inaudible). [LB262]

SENATOR RIEPE: You're in demand. [LB262]

MARY JANE TRUEMPER: I'm sorry. [LB262]

SENATOR RIEPE: I have a curiosity question. [LB262]

MARY JANE TRUEMPER: Sure. [LB262]

SENATOR RIEPE: 2011, I think, is when you said that Fair Acres was designated as a blighted area? [LB262]

MARY JANE TRUEMPER: It was attempted to be designated as a blighted area, yes. [LB262]

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SENATOR RIEPE: Was that the same time when Warren Buffett's home was being designated as a blighted area? [LB262]

MARY JANE TRUEMPER: Yes. [LB262]

SENATOR RIEPE: Okay, I recall that. [LB262]

MARY JANE TRUEMPER: Yes, he was part of the same neighborhood, yes. [LB262]

SENATOR RIEPE: Okay. Well, that's certainly blighted. Thank you. [LB262]

MARY JANE TRUEMPER: Yes, thank you. [LB262]

SENATOR HANSEN: Thank you. All right, we'll take our next proponent testifier. [LB262]

PAUL VON BEHREN: My name is Paul Von Behren, last name is V-o-n B-e-h-r-e-n, absolutely no French in that one. Senator Hansen, committee, I do appreciate the opportunity to testify today regarding TIF funding. It's not...I have an MBA, I certainly don't intend to persuade you that I understand all matters financial of government. If there's one thing I've learned to appreciate, it's the job that you do because I don't have to do it. So that is...I am grateful for that. But I think this issue has come very close to home. I live just west of Fremont, Nebraska, and as you know, I think there's a large Costco development plan for Fremont. I believe the numbers that I heard stated that it would represent about 1 percent of the state's GDP, so for a small town like Fremont, it's a very big deal. And I agree with Senator Groene that TIF is a well-intended concept, but like all well-intended concept once it's put into play the public, if you want to have the best set of beta testers ever, have businessmen, have developers, have people with the best interest in obtaining that money and you quickly see the shortcomings. What we've experienced in Fremont, and I'll just confine some of my remarks because I'd like to save some of them for the other two bills that Senator Groene has, but we have bare agricultural land that, I'd have to look, but I can almost promise you has not been annexed by the city for 40 years that has been targeted for the specific purpose of economic development. It has nothing to do with urban renewal, this is strictly economic development. And as Senator Groene pointed out, I do not believe that that falls within the scope of the law. LB262 would restrict the use of TIF to legitimately blighted and substandard land, and I think that's a good thing. That needs to happen because this also becomes an issue of transparency. This has created an issue of severe conflict within Fremont because now you have the big standards for blighting this land, you have citizens in an uproar, you have a council defending it. And what's even more interesting was when Costco brought to the table a 60 percent expansion that would take the project from \$175 million

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to \$275 million miraculously through some unknown reason, we evidently decided that there was a true need and a true home for that money. That money was...the council and planning commission had no problem approving that expansion. The whole process (inaudible) but for Senator Groene points out, it just appears to be unregulated, unrestricted, and has now drifted beyond the legal limits. I think as a fiscal matter one of the other things that's good to point out is that the Nebraska Advantage Act and the Employment Investment Growth Act combine, and I believe TIF is a part of those, remove about one-third of our corporate tax base in Nebraska from the roles. Now, even if we could only cut this in half, we could return about one-sixth of our corporate tax base back to legitimately taxable roles and at a time of our own obvious economic concerns that might be a very positive thing for the state. So that's all I have. Thank you. [LB262]

SENATOR HANSEN: Great, thank you. Are there questions for Mr. Von Behren? Senator Riepe. [LB262]

SENATOR RIEPE: Thank you, Senator Hansen. I have a curiosity question because we talk and we hear about a couple of wars, fights between states and states, and we have to make concessions to attract and retain certain corporations. Is that the situation with the Costco chicken plant, that we're being leveraged out through, lack of better term, threats of the corporation going to a different location? [LB262]

PAUL VON BEHREN: You know, and that's part of what makes this whole issue so difficult, because the wording is fuzzy it's very difficult to see where crony capitalism ends, where Costco may have come in anyway--they've cited other reasons, like our grain supply and our road systems and the central location and all that--they may well have been there anyway. But they would be absolute fools not to play the TIF funding for all they're worth. So I honestly, given the state of TIF funding and the definitions, I honestly can't distinguish where crony capitalism stops and legitimate need begins. [LB262]

SENATOR RIEPE: Okay, thank you. [LB262]

PAUL VON BEHREN: Thank you. [LB262]

SENATOR HANSEN: Thank you, Senator. All right, we'll take our next proponent testifier. I'll note for the record that Senator Larson has joined us. Are there any other proponent testifiers? Okay, seeing none, we will move on to opponent testimony. When you're ready. [LB262]

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DAVID LANDIS: (Exhibits 14, 15, 16, 17, 18, 20, 21) Thank you, Senator Hansen, members of the Urban Affairs Committee. David Landis, urban development director for the city of Lincoln. I'd like to talk about the TIF concept in general for a while, just to set the tone. I've passed out some things that I hope you'll take a look at. And this is my best way in one graphic to explain the TIF process as best I can. At the base here it has a little yellow line and let's assume that there is a \$100,000 structure on a piece of property paying \$2,000 of taxes a year. It goes to the county, the city, the NRD, and all of the rest of the property tax paying entities. Then there's a green line that jumps up here and big orange blotch. Well, that's to represent the new development, let's say it is a \$10 million valuation jump. Big, significant project, probably spent \$15 million to do it, probably valued at \$10 million when it's done. Now it pays that \$2,000 it always did, but it also pays \$200,000 in taxes because it's a \$10 million valuation--2 percent of \$10 million, \$200,000. So the taxes that the developer pays on that \$15 million of cost that he put into making that building, their taxes are diverted at the point of the yellow line. Keep the taxes that were being addressed and passed out the \$2,000 and the growth in the taxes, we will put into making the project happen. Banks know that that's going to come and they know that taxes don't go down. So because there's up to 15 years, this orange agreement, banks will loan money to developers if they can have access to that income stream that taxes by the developer. Nobody else, just the developer. So what happens is the city issues a bond, the bond is bought, usually by the developer's banker, then the developer pays their taxes year after year, and those taxes don't go into the general pot, they go into repaying the bond. First important thing to remember is nobody else's taxes are implicated, only the developers on the piece of property that is itself a TIF project. What special treatment they get is this: build in this location for this purpose and you may divert those taxes from the general norm to help the project occur. Why? Because hopefully we need that project to occur. Second one says what happens to taxes generally? Well, it starts here, it jumps up, and when it comes out of the 15-year period, that tax valuation has grown considerably. In fact, those start paying handsomely. Would you look at this one, because this one talks what...tells the story in Lincoln of what we've done on the first 20 projects that we have. These are projects that we opened up, collected taxes for 15 years, spent it for the project, and then those projects are now paying all their taxes and to the schools, the cities, and the counties. First element is this edge over here, those are the 20 projects. We know how much taxes they were paying, we know what they were valued when they went into the TIF process. The total of all that property was \$20 million of valuation and all together that property was paying \$498,000 a year in taxes. They then spent 15 years or less in the TIF process diverting some of that money into making the project work. And in fact, we counted up how much was diverted and made for these projects and the answer was about \$7,800,000...money that was collected from developers, spent for the projects. The payoff, if you will for the community, at least one of the payoffs, is what happens to the tax base when you're done, what happens to that valuation? Well, that's where the yellow begins and it runs up to the day. So we've calculated how much those projects that have gone through TIF, come back on the tax roll, and now support our schools and counties, the value, and the amount of valuation has gone up

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from \$20 million to \$128 million. Annual taxes have gone up from \$498,000 to \$2,600,000 a year, and the total amount of new taxes is \$45 million. That's our schools, counties, and cities. In other words, the payoff for the city and local property taxpayers has been very handsome. My time has run out. [LB262]

SENATOR HANSEN: Yes. [LB262]

DAVID LANDIS: I'll answer any questions you might have. [LB262]

SENATOR HANSEN: Great. Are there questions for Mr. Landis? I will ask, would you mind addressing your perspective on LB262's language specifically? [LB262]

DAVID LANDIS: The examples that are there I think are generally in towns other than in Lincoln and Omaha. If there was an area or something that caught my mind, you might take a look at the veterans administration area in the city of Lincoln, about 60 acres. There are 20 buildings on that, but it is a green and grassy beautiful area, at least the landscaping. Don't step inside the buildings, they're uninhabitable, at least 16 of the 20 are essentially uninhabitable. They would be condemned if people were invited to go out and try to use the property. They're in shape that goes from usable, in the case of a handful of them, to incredibly unusable for the rest. But they dot an otherwise 60 acres inside the city of Lincoln for which there's not been development. We have a project for that. We have used this tool for that area. We have unusable, dilapidated, deteriorated buildings, but on a handsome amount of maybe you'd call it undeveloped land. I can't look at LB262 and say that the housing for homeless veterans that we're going to do, that the expansion of residential property for senior citizens which we hope to do, for the creation of health-related commercial interests at that location we can do given that bill. And I can't tell if we've stepped too far or not because of the way the bill's written. Now, the developer in that case is here and I'd like to let them testify. But the city of Lincoln does oppose the bill. We simply wanted to talk about what this tool is and why it's important to us. [LB262]

SENATOR HANSEN: Absolutely. Appreciate the perspective. Any other questions for Mr. Landis? Seeing none, thank you. All right, we'll take our next opponent to LB262. Welcome. [LB262]

DAVE RIPPE: (Exhibit 19) Senator Hansen and members of the Urban Affairs Committee, thank you for the opportunity to address your committee this afternoon. My name is Dave Rippe, D-a-v-e R-i-p-p-e, and I'm the executive director of the Hastings Economic Development Corporation. LB262 eliminates the ability of Nebraska communities to utilize tax increment financing to encourage the development and redevelopment of vacant land not falling within one narrow statutory definition. In rural Nebraska there is a shortage of available, affordable, and

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desirable housing inventory. While there are many factors that are contributing to this issue, and while every community is different, the end result is the same: a lack of housing, which is in turn impacting the economic health and growth of our rural communities, and ultimately impacting the tax revenues and expenditures of our state and local governments. Speaking in general terms, the primary issue inhibiting private investment into commercial and residential development in rural Nebraska is a generally realized rate of return that doesn't justify assuming a level of risk that is too great and a term of payback that is too long. Specifically, I've attached to my testimony today a preliminary site plan for a 90 acre mix use development project that our not-for-profit development corporation is currently considering. At full build out, the project would add in an excess of \$40 million of valuation to Hastings and Adams County, and more importantly for today's discussion, it would create an annual tax revenue stream of over \$800,000 from a property that is currently producing just \$8,000. Estimated land sales for the project are approximately \$5 million based on our current site plan, estimated infrastructure and acquisition costs based on the same are in excess of \$5 million. In a best case scenario, our nonprofit development corporation will do just that, not profit. I'm not aware of any private developers that will spend \$5 million to maybe make their money back over the next 20 years, but if you know of any, I do have business cards available today. This project, which would not be eligible for tax increment financing, should this bill be adopted, is essential to the future growth of our community; and projects just like this are essential to the future of rural Nebraska. I respect Senator Groene's opinion that economic development happens, but I can tell you without hesitation that the private sector is not coming to save rural Nebraska. Eighty percent of our counties lost population in the last census period. Rural Nebraska is the new center of the doughnut. The private sector will not underwrite the compensating differential for doing business in rural Nebraska. We can dislike it as much as we want, but in a world of finite resources, investors will seek out the greatest level of return. This is why we need to be able to invest in ourselves to help attain and achieve our desired end results. In Hastings, on average, we have 40 new housing units per year. A 2016 housing study from Hanna Keelan states that we need to add approximately 800 total units over the next 5 years, so currently the private sector is addressing about 25 percent of the need, predominantly through custom builds, not speculative endeavors or rental housing. In the meantime, our employers state the same concern as 80 percent of the members of the Nebraska State Chamber of Commerce: a shortage of work force. In order to attract work force, we need the next highest ranking concern: available housing. In order to add housing, we must grow our communities, not be restricted by 40-year-old city boundaries. Seeing my time, I'd ask that you please frame the tax increment financing discussion today and next week with all of the other bills that are currently being considered--LB518 to provide \$10 million to assist in market rate housing projects; numerous bills introduced at the encouragement of our Governor to curtail unnecessary government regulation that hampers growth; and the bills targeted at closing the state budget gap, as well as those attempting to ease the pain of property taxes. Thank you for your time today and I respectfully encourage you to consider more ways that we can help Nebraska grow, rather than restricting our ability to do so. [LB262]

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SENATOR HANSEN: Thank you. Questions for Mr. Rippe? Senator Larson. [LB262]

SENATOR LARSON: I don't disagree with...I can understand where you're coming from in terms of the economic development tool. I guess the question that popped up came off of your last statement. Would you not agree that Senator Groene is trying to address part of the property tax problem with these TIF bills? [LB262]

DAVE RIPPE: What I see happening personally through these bills is we're restricting our ability to add property tax base. Part of what... [LB262]

SENATOR LARSON: Property tax base or sale? Because in the end, I guess that's kind of my understanding, is he's trying to...what type of property tax base are you trying to add? [LB262]

DAVE RIPPE: I think we're trying to add the valuation that provides for long-term tax revenues into our communities. I think Mr. Landis illustrated what those revenue streams can be. One specific example, Senator Larson, could be on our site plan. We have a 10 acre plot to add a mix use development of apartments and townhomes and duplexes. I don't have 10 acres of blighted and substandard ground sitting in the 40 year old city boundary of Hastings. Where do we go to add that ground and help to bring the market rates or the rents that would be associated with building that complex into line with what our work force can afford? [LB262]

SENATOR HANSEN: Thank you. Other questions? Senator Crawford. [LB262]

SENATOR CRAWFORD: Thank you, Senator Hansen. And thank you for being here and testifying. So the key I guess, the justification in your case, for this residential development out closer to the edge of your city is really to protect and develop the area of the city, in order to make sure that it doesn't get further blighted. The blighted and substandard...I guess maybe I'd just ask a question first that what you've shown us here, where is the blighted and substandard areas that you...that are adjacent that you are protecting or trying to preserve or develop? [LB262]

DAVE RIPPE: Sure. And so for us this is a project that enhances and meets with the redevelopment plan of our community of a property that's not currently within the city boundaries of Hastings. And so that's one of the tools that we would use by which to encourage development on this property through tax increment financing. Beyond that, there are structures that need to be demolished on the property, antiquated housing, and new infrastructure that needs to be brought in to help serve the property. [LB262]

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SENATOR CRAWFORD: In this area of development as well? [LB262]

DAVE RIPPE: Yeah, correct. [LB262]

SENATOR CRAWFORD: Right, right, right. Okay, thank you. [LB262]

SENATOR HANSEN: Thank you, Senator. Any other questions? Seeing none, thank you, Mr. Rippe. [LB262]

DAVE RIPPE: Thank you. [LB262]

SENATOR HANSEN: All right, we'll take our next opponent testifier. [LB262]

BOBBI PETTIT: (Exhibit 22) Good afternoon. My name is Bobbi Pettit, I am the director of business development in greater Nebraska for the Nebraska Enterprise Fund, and I live in Kearney, Nebraska. I'm here today to testify in opposition to LB262. Without the use of tax increment financing to clear blighted buildings and develop vacant, adjacent lands the successful start-up of small businesses such as Tornado Alley in small communities such as Arapahoe would not have been possible. Tornado Alley is a mom and pop bowling alley business and restaurant that was built in Arapahoe in 2015. The construction of this new small business would not have been possible without the availability of tax increment financing. In addition to providing a place for the Alma High School bowling team, a place for the Arapahoe Elementary School, and a place for the Arapahoe Senior High to have PE, the business had experienced annual sales of greater than \$200,000 and added four jobs to the community. Without the use of tax increment financing, this business could not and would not have located in Arapahoe. While increased property taxes to agencies on this project will be delayed, not eliminated, as the cost of infrastructure is recovered it is important to understand that new income and sales tax revenues are generated from the first day that the new business was opened. Keep in mind also the small businesses located across central and western Nebraska not only provide a livelihood to the good business owners, such as Scott and Angela Moore, who opened Tornado Alley, but also provide critical services and increased sense of community to residents living in and around that small town. This new small business provides local, safe recreation for residents and youth and improves the quality of life and sense of community in Arapahoe. Much like new infrastructure, a city or village often has very few resources needed to enforce codes and redevelop abandoned, dangerous, and rodent-infested properties. Once a TIF project is paid for, a city or village is left with additional revenues needed to clear and redevelop those adjacent blighted neighborhoods, clearing the way for additional small businesses to open up. When opening a small business, solid cash flow planning is crucial. Throughout the life of the business, but especially in the first three years, having a positive bottom line is imperative to the survival of that business. Start up

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costs are the largest hurdle to overcome. Without the use of TIF, we would not have land ready and available for small businesses to hit the ground running. When considering the term "vacant," I ask that you also consider the term "undeveloped" or "underdeveloped." Much of the land adjacent to communities such as Red Cloud, Arapahoe, and Anselmo, Nebraska, are undeveloped or underdeveloped because a village or small city does not have the money needed to lay water and sewer pipes, run electrical lines, run gas lines, and build roads. Due to a simple lack of money, these development projects would not have been possible without the use of tax increment financing. That's all I have for you, I'll take any questions you have for me. [LB262]

SENATOR HANSEN: Great. First things first, could I get you to spell your name for the transcriber? [LB262]

BOBBI PETTIT: Bobbi, B-o-b-b-i, Pettit, P-e-t-t-i-t. [LB262]

SENATOR HANSEN: Okay. Are there questions for Ms. Pettit? Seeing none, thank you for coming down. [LB262]

BOBBI PETTIT: Thank you. [LB262]

SENATOR HANSEN: All right, we'll take another opponent testifier. [LB262]

ANDY COLVIN: Good afternoon, Senator Hansen and members of the Urban Affairs Committee. My name is Andy Colvin, A-n-d-y C-o-l-v-i-n, and I am the economic development director for the Norfolk Area Economic Development Council, which is a partnership between Madison County and the city of Norfolk. And we certainly promote the economic growth of our region. And I appreciate the opportunity to testify in front of you today. And I would first off want to echo a lot of the testimony I've heard today from the other opponents. But the reason I wanted to come before you to express some current concerns I have with LB262 and respectfully oppose the legislation, my interpretation of the bill is that it is intended to prevent the use of tax increment financing for any redevelopment projects utilizing in whole or in part undeveloped land. And I'll provide an example of a project area we've identified in Norfolk to illustrate my concerns. Some of you may know, if you know a little bit of history about Norfolk, a meat packing plant closed a number of years ago, the property has been sitting vacant since then, and is located just outside city limits. And again, it's been sitting vacant, unused during that entire time. The area is currently not designated blight and substandard, again it's not in city limits right now, but it's just adjacent to. And unless you know better or look at a map, you would never know that it's not in city limits because it's certainly in an urban area. But we've been marketing the site for a number of different potential uses and we submitted the site to be considered for a new industry looking to locate in Nebraska and in our region of Norfolk in the northeast

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Nebraska. And the particular industry requires significant infrastructure investments and has a very large footprint, and including a lot of the other things it's going to need is parking, utility services, access roads, and other improvements. So when you look at one site, where the one building is on the...for the plant, it doesn't look very good. What does look good, in addition to the plant, is the undeveloped vacant land just to the south of it. And that is one of the driving reasons behind marketing the site is the fact that there are several acres of undeveloped land next to the old plant. The potential industry in this case would need the plant and sections of the vacant land to have enough space. And we must not forget that oftentimes industries will co-locate on adjacent parcels of land. Preventing tax increment financing from being used on undeveloped land would make projects like this extremely difficult in terms of competitiveness with other states, in addition to the potential loss of future industries that would also need the infrastructure and services in this area. This site is just one example of the impact of this legislation on Norfolk and other areas exist as well and I could give some other examples. But in closing, I would just like to reiterate my opposition to the bill and I would like you all to know that in order to grow our state and communities I feel we must remain as competitive as we can with respect to incentives for industry and economic growth. Certainly TIF has been one of those tools that stood the test of time and I think has created a lot of jobs in the state of Nebraska and other states as well. And removing the ability to use tax increment financing on undeveloped land significantly reduces local control and our ability to attract and retain industries in the state of Nebraska. So I want to thank you for your time and the opportunity to talk to you this afternoon. And I would be available for any questions. [LB262]

SENATOR HANSEN: Thank you. Are there questions for Mr. Colvin? Seeing none, thank you for coming down. Next opponent? [LB262]

KENT SEACREST: (Exhibit 23) Good afternoon, my name is Kent Seacrest, S-e-a-c-r-e-s-t, and I'm a land use attorney of 35 years. And 35 years ago I got to do the first redevelopment project under TIF called the Cornhusker Hotel. Some of you might have remembered the old Cornhusker Hotel. And ever since then, tax increment financing has been a substantial part of my law practice and I am here not as a government, not as a development corporation, but as a private sector. At times I have been special city attorney, but most of the time I am private sector. And I just want to tell you that this is a fine balance of risk and reward and adding more restrictions are going to add more risk to the private sector and backfire in my judgment here today. I found State Auditor Janssen's report very interesting. The missteps that he identified in opinion none of them were intentional. What you have here is one of the most complicated laws. I get to deal with city attorneys across the state that are really bright people and they can't read this law and interpret it most of the time. After 35 years I constantly have to go back in and try to piece this together because it is not as logical as we all wish it would be. So it's just a misconstruing situation that I think...and what I'm worried about are these bills are too broad brush. They are going to go in and make it even more complicated, unclear, cause additional

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delays, add more risks to the private sector, and deters the government's goal of trying to remove blight and substandard from their area. TIF is practically the only city tool to level the playing field between the inner city and cornfields. And without it, cornfields are going to win all day long, and that's not good public policy because we have to...we already got the infrastructure in the inner city, why go duplicate it out on the cornfield. It is not a good use of taxpayer money. It is better to keep reinvesting in the core and TIF is the main tool that keeps that balance in place. And, you know, except for Lincoln and Omaha, I think we're doing pretty well with TIF. We use it correctly and I think we're seeing the results. We still got lots of blight, we're not done. I look out west and the cities I get to work with they're not winning the battle when it comes to their older urban areas. They are getting worse and worse and they need this tool to make it go forward as much as possible. "But for" is in the statute, not those exact words, but the requirement that you have...the city has to make a finding that without TIF the project could not be done. So it is a statutory requirement and TIF is not tax abatement. TIF proceeds must be used for public purpose and economic development is the best way to remove blight and substandard. So it's not an economic development law, but by using economic development that is what removes the blight and substandard. I gave you a handout that's in front of you on this particular bill. I'm opposed to all three, but because of my time I'm only going to talk once. But I want to talk about this bill because it is misguided to take away the open space or the undeveloped requirement. I'm showing you a project in Lincoln that in 2013 is a sod field. It's inside the city limits, but hasn't been inside the city limits for 40 years, so it wouldn't meet the test. And on the next page, it was in the flood plain, you can see the flood plain map on the first page. We were able to convert that into a soccer complex for this community and serve a massive need of young kids in our community. This law, if we would have had the open space requirement of this bill, this project would not have been built in my opinion. The next page, page 3, is showing you another old landfill site out by Oak Lake in Lincoln, Nebraska. Again, full of open space, it might have been there for 40 years, I'm not sure of that fact either, but all I know is that's open space and we had approved baseball fields on top of a landfill. So it's a great use of a brown field site. And again, brown field sites are often open space areas that should and deserve tax increment financing. The last page I'll show you is the one David Landis mentioned, that's the VA campus. Sixty-three acres, the bulk of it is open space. This project has not been annexed for 40 years, it's on the edge of Lincoln, we grew out to the old VA campus. So we would not have been able to do the project that David described earlier to you without...if this bill would have been in place. And bottom line is there are flood plains, there are brown field sites, there's old landfill sites the city has that are open space. And this law is drafted much too broadly and we would not be able to use tax increment financing to removed these types of blighted and substandard areas in our community. And with that, I'd be glad to answer any questions. [LB262]

SENATOR HANSEN: Great, thank you. Are there questions for Mr. Seacrest? Seeing none, thank you for coming down. [LB262]

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KENT SEACREST: Thank you. [LB262]

SENATOR HANSEN: All right, we'll take our next opponent. [LB262]

GARY PERSON: (Exhibits 24, 25) Senator Hansen, committee members, my name is Gary Person, spelled like person, G-a-r-y P-e-r-s-o-n, I'm the president and CEO of the North Platte Chamber and Development Corporation. I also come to you in representation of the 300-member Nebraska Economic Developers Association, their legislative committee, I'm a past state president of that association as well. The North Platte Area Chamber and Development Corporation board of directors representing 600 area businesses in the Lincoln County area has unanimously went on record in opposition of LB262. I've worked with many redevelopment projects in various sizes of communities throughout my 35 years of economic development involvement in western Nebraska. I can speak to those experiences to the effectiveness of what TIF can do to enhance communities and its elimination of blight and substandard properties and create something new out of nothing. Once you fix the expensive public infrastructure component of projects, it effectively diminishes the developer and community's cost that makes the projects feasible to build in rural Nebraska. LB262 would disable most redevelopment projects in our rural communities before they even get started and would render new developments very difficult, if not impossible, to accomplish. Rural Nebraska communities have very limited resources. Unless you've battled in the trenches, the economic development trenches, on trying to grow rural Nebraska, you simply can't appreciate enough what TIF means to our survival and our growth potential. Without it, nothing will continue to happen in those designated areas. Everybody loses when nothing happens. There's a reason they call it the community development law, it was designed to let the local community exercise its rights for local control and decide for itself the right fit, the right project for that community, provided that the statutory requirements are met. North Platte's signature TIF project was the Walmart distribution center built in 2002 in a substandard and blighted area, but without the use of vacant land within that area, that project does not happen. Those 62 management jobs and 535 hourly jobs averaging \$21.50 per hour would not be in North Platte without TIF. Total daily truck traffic numbers in and out of that Walmart distribution center today average between 250 and 275 trucks. That truck traffic contributes significantly to our regional economy. The Walmart project paid off the TIF bonds in less than 10 years. Today, approximately \$21 million in new valuation exists on that solitary project. There are also several million dollars of additional valuation with other projects directly associated with that one, along with several million dollars thrust into the regional housing market, car sales, and the retail community. The \$16.8 million annual payroll, with \$3 million of additional annual paid benefits, has directly attributed to this one TIF project and its residual economic impact on the community multiplies several million dollars over and over again. As a state we seem to highlight TIF projects that some perceive to be bad examples. What we should be doing is talking about the 90 percent of TIF projects that have had a huge impact in diversifying Nebraska's economy with new investment and significant job creation

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over the past two decades. In my opinion, it's been far more effective as an incentive than Nebraska Advantage has been for rural Nebraska. We ask that you not further inhibit our most effective development tool. Thank you. [LB262]

SENATOR HANSEN: Thank you. Are there questions for Mr. Person? Seeing none, thank you for coming up. All right, are there any other opponents for LB262? If there are further opponents behind this one, I'll maybe ask if you could come down and sit in the first row so I know you're getting ready. [LB262]

MARK NORMAN: Good afternoon. Thank you, Senator...oh, a few more there... [LB262]

SENATOR HANSEN: All right, good to know. When you're ready. [LB262]

MARK NORMAN: Yep. Good afternoon, thank you, Senator Hansen, appreciate that. I am Mark Norman, M-a-r-k N-o-r-m-a-n, I'm the senior director of client services for the Greater Omaha Economic Development Partnership, I'm also representing the Nebraska Chamber of Commerce and Industry today, as well as the Nebraska Bankers Association. Appreciate the opportunity to speak with you today. I'm offering our opposition to LB262, LB489, and LB597, I'm just going to speak on LB262 at this point in time, and we share the concerns that are being expressed today about placing additional restrictions on the use of tax increment financing for development projects. TIF has worked well in redeveloping areas in the urban core, in the oldest parts of the city, but there are times when there is not sufficient quantity of land inside the city limits of a community to place a large job creator. And as part of my role with the client services with the Greater Economic Development Partnership, I work with a lot of those projects on a day-to-day basis. In order to land a large job creator project, if a challenged piece of property is located just outside the city limits that would allow a great project to land in Nebraska and turn an underutilized piece of ground into a long-term tax generator, that is a win-win. I'll talk about a couple areas briefly, one of those is the area south of Bellevue, south of Offutt Air Force Base along the new Highway 34 corridor. We've presented that piece of property to several large projects over the past 10 years and typically we've come in second or third. And the reason for that is because of the lack of infrastructure that's in that area. There's other issues with the soils and so forth, but there's a large cost for extending infrastructure out there: \$5 million for water; another \$1 million, \$2 million for sewer; plus you're going to have to build up the project, you know, one to two foot in order to locate there, even though it is protected by a levee. So I think that's a great example if we're able to utilize TIF for that piece of property to land a project that would be a win-win is great. That is what TIF was meant to utilize for to do that. Now, the property is not inside the city limits, a portion of it is inside just immediately to the south of the base, but the rest is not. But it is in the city of Bellevue's ETJ and their long-term land use plan does identify that as industrial development. So again, the city of Bellevue has eyed that as a

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future development area and TIF would be very useful to address that. The other issue was mentioned earlier, was the Costco project up in Fremont. Again, that site was Hills Farm, it was about a 450 acre site. Obviously you would not be able to find 450 acres inside the city limits of Fremont in order to do that project. The city was not able to annex that at any future point in time because that area was blocked off by what's called the county industrial park, which prevents a city from annexing them. A group of individuals who are within that county industrial park classification saw the value of that particular project and they say, we're going to forgive our county industrial park zoning, we're going to voluntarily annex into the city to provide that path so that they could then annex that particular piece of ground into the city. Again, you're going to have a large area that is in the flood plain, they're going to have to build that up, probably four to five foot for each of the pads on the buildings. There's probably several million dollars of infrastructure and roads that are going to have to be built. But they're also going to be able to extend the life of Fremont's sewer treatment facility by building a new facility in that particular area that's going to divert the Costco waste stream, as well as cup the other producers in that area, which is going to save the city millions in the long run for many improvements to their existing facility. So I see my time is up, appreciate the opportunity. But again, I think our opposition against LB262. [LB262]

SENATOR HANSEN: Thank you. Thank you for your testimony. Are there questions for Mr. Norman? Seeing none, thank you for your time. [LB262]

MARK NORMAN: Thank you so much. [LB262]

SENATOR HANSEN: Next one up. [LB262]

MICHAEL WERNER: Thank you. Good afternoon, senators. My name is Michael Werner, M-i-c-h-a-e-l W-e-r-n-e-r, and I'm the mayor of the city of Waverly. I want you to know I'm not an attorney, so I can't speak to anything legal like that, though that's why we have a city attorney. Our city of Waverly, probably in the last 10 years, have had 9 successful TIF projects, some ranging from \$20 million, clear down to \$800,000; small and big ones. Every time there's a project, the private developer comes in, we recommend that they seek TIF counsel, the city has our own TIF counsel. We use Rembolt Ludtke, Tim Moll is who represents our city usually, or Tom Houston. Those are the two people that's always been representing our projects, they're at all of the open public meetings to answer any questions. TIF is a complicated thing, it isn't easy, there's a lot of moving nuts and bolts and legal stuff that has to be made. And again, I think that's why we got to have attorneys to kind of write out a lot of that for us. My biggest fear about these three bills, and I oppose all three, is it's hard enough trying to attract out-of-state companies to come to our state or to promote any sort of development or growth without having TIF in our tool bag so to speak. The very...I challenge anybody, the very first thing these people ask is do

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you have TIF. If you say no, they're gone. It's that simple. I like what some of the people said, we suffer from the same problem in Waverly. Not all of our TIF projects we can put in the center of the city, the edge of the city is where some of these have to go. You know, why would we want to put up something that will require 50 acres of land, that's going to employ 75 jobs let's say, and they're doing some of their work outside, they bring in a lot of building material, that type of thing, why would we want that in the center of town? But you have to go to the edge of town for a lot of this. As a city, so you know, the CDA that we have, that it's always been a policy. We try very hard always to have a 25 percent administrative retainage (sic). So when that TIF loan goes through, the CDA saves back to try to improve public infrastructure within that general geographic regions as something that would help the overall area right there. We also created, I think it's worth noting, that we created a TIF bucket so to speak. We've had businesses come to our town that didn't want TIF. I'll mention Valmont Industries, that was one of them, they did not want to use TIF. We created a TIF bucket within that region, there was a public improvement project then for a watershed for actually taking care of storm water, improvement project that would affect...it would help about a 50-acre area right by them. It was right on Highway 6, right by where Valmont did their work. So we used that to finance the actual project, the infrastructure project, so I just think that we just don't...I know the state I believe in the audit, two of our projects were audited. I believe it was MBA Poultry was audited, that project, and Tractor Supply. I don't want to do anything to get anybody in trouble or those businesses in trouble, but they come through the audit fine. If there would have been a problem with the audit, we would have clearly abided by what the state said, what's the problem. We had legal counsel look at it and corrected the problem simply. So that's all I have, senators. Thank you for the time today, and you do do jobs that a lot of us don't want. So thank you for sitting here tonight...today. Thank you. [LB262]

SENATOR HANSEN: Thank you. Are there questions for Mayor Werner? Seeing none, thank you for coming down. [LB262]

MICHAEL WERNER: Thank you, sir. [LB262]

KARL ELM SHA EUSER: Good afternoon. [LB262]

SENATOR HANSEN: Afternoon. [LB262]

KARL ELM SHA EUSER: Good afternoon, members of the Urban Affairs Committee and Vice Chairman Hansen. My name is Karl Elms haeuser, K-a-r-l E-l-m-s-h-a-e-u-s-e-r, I'm testifying in opposition today to LB262. I'm the executive director for the West Central Nebraska Development District that covers 18 counties and 50 incorporated communities, and you see on the card that's passed out that would be the orange area that I represent. I'm also here on behalf

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of the Nebraska Regional Officials Council, which is on the card, which is a coalition of all the development districts within the state of Nebraska. In 1994, the Ogallala city manager asked me to help start a community redevelopment authority for the city. I became a founding member and chairman. At the time I was running my own aviation company. Over 10 years ago, I accepted my present position and have been helping communities establish a CRA or CDA and have worked on numerous projects. I have 23 years of experience in the field of community and economic development. Statute 18-2103 defines a blighted area and allows the local government, through a proper notification and hearing process, to make that determination based on the law. That includes from the statute, I quote, "any combination of such factors" that "substantially impairs or arrests the sound growth of the community" and "at least one of the following conditions." Under condition (v) "the area has had either stable or decreasing population based on the last two decennial censuses." The amount of area that may be determined to be blighted is also limited by statute. Part of the problem in our region is that we have space. Most of the time the only tool a community may have available is tax increment financing to address public infrastructure required for major projects. Some of those projects are on undeveloped, vacant land. Without this provision, our rural communities would be crippled in the development of key agricultural projects and impact their lives and economy. Examples will include the ethanol plant in the village of Madrid, which I would point out is a population of 231 people; the grain storage facility in the city of Benkelman, 953 people; and others such as the village of Venango, village of Bartley, city of Arapahoe, city of Cambridge, city of Imperial, city of Ogallala. Of the 58 communities I serve, only 7 have increased in population in the last decennial census. They need the ability to make their own determination within the existing law that helps address the growth and stability of their community, that includes the ability to do TIF projects on undeveloped, vacant land. I drove for four hours today, plus a time zone change to be here to voice my opinion within my four-minute time limit, and as soon as I'm done I have another four hours to drive back home. That's how important it is for these communities that I'm working with to voice opposition to this proposed legislation. If you have questions pertaining to this bill, I would welcome the opportunity to address them to the best of my ability. A couple other things I would like to point out, so for...I live a simpler life, village of Madrid, 231 people. Ethanol plant, \$22 million project, but the issue for them is I need to be able to provide water and streets that will support the semi truck traffic that's going to bring the green in and the rest of that. And so that public infrastructure cost...and Senator Riepe, you said, well, does that mean you have to bond it. If they didn't do the TIF project in order to make the public infrastructure projects, they couldn't do the project there and it would have to go someplace else. Senator Larson, you asked about, well, does that increase the, you know, take away from the tax base? I think part of what we've misunderstood, this is not a tax abatement program. I think what we're arguing about is how are those tax dollars then spent. And in my case, for most of these projects that I'm looking at, it's public infrastructure projects that otherwise the community couldn't afford to do. I'm out of time, and I'd be glad to take your questions. [LB262]

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SENATOR HANSEN: Absolutely. Are there questions for Mr. Elmshaeuser? Seeing none, thank you for coming up. [LB262]

KARL ELMSHAEUSER: Thank you for your time. [LB262]

JEFF RAY: Good afternoon, Senator Hansen, committee. My name is Jeff Ray, it's J-e-f-f R-a-y, and I'm a professional planner. I'm representing myself, I work as a planning consultant in Nebraska, I cover all corners. I have written over 50 blight studies and studied this area, including in graduate school here at the University of Nebraska, where I got my master's in community and regional planning. I have been involved with blight and substandard determination since 1994. I'm opposed to the bill the way it's written. I believe it's swinging a pendulum way too far and ultimately will restrict the use of any tax increment financing. The section that Senator Groene refers to, to define an area in his LB262 is one of five criteria for the blighted terms. And if I can read that, the entire area is "more than half of the plotted and subdivided property in an area is unimproved land that is been within the city for 40 years and has remained unimproved during that time." There are very few parcels that I have come across in working in any village or city across Nebraska that have been incorporated, platted, and subdivided, and remained undeveloped for 40 years. Now, they may have been developed 100 years ago and then sat vacant and dilapidated and then torn down in the last 10 years, but that still wouldn't meet this criteria in the way it is spelled out today. So I believe it is swinging a pendulum too far will ultimately restrict all development, including developments that we have today that are some of the great places in Nebraska--including the Old Market, the Haymarket, and so forth. The use of tax increment financing is a very important tool for most communities. It's been said before the housing, I believe Mr. Rippe mentioned housing and how that was important to the city of Hastings and Adams County. As we as planners and my planner staff go into communities and work with them on comprehensive plans and asking them what do they need in their community, and we tell them what are the top three priorities after housing because housing is their first three priorities. Tax increment financing I'm seeing used to help buy down the cost of that expensive public infrastructure extension that's necessary on vacant land for new housing to take place to support work force housing in these communities across Nebraska. The other one reason I'm opposed to this bill is I believe that by utilizing and tying the nexus back to annexation evokes a whole series of other rules for annexation purposes that further restrict that. Having to be in a community for 40 years, there are simple rules that I will summarize those...be contiguous and adjacent, urban in nature; those things get in the way of that. We heard earlier the city of Fremont, where I used to be the community development director there, we weren't able to annex anything in that area because we were blocked off by a county industrial zone based on annexation laws. So there's several other laws that we have on our books that are going to restrict that. In addition, we have Revised Statute 17-405.01 which allows for skip annexation for communities with ad valorem tax, which would essentially prohibit this to ever happen, so you wouldn't have an ethanol plant being developed outside of a community with this annexation

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purposes and it would totally strike that. And that was the intention I believe when this was passed a couple decades ago. With that, I'll end my testimony. Again, thank you. I appreciate your time. [LB262]

SENATOR HANSEN: Great, thank you. Are there questions for Mr. Ray? Seeing none, thank you. Next opponent. Welcome. [LB262]

JENNIFER TAYLOR: Good afternoon, senators, members of the Urban Affairs Committee. My name is Jennifer Taylor, J-e-n-n-i-f-e-r T-a-y-l-o-r, and I'm assistant city attorney for the city of Omaha, here on behalf of the city of Omaha. The city of Omaha is opposed to LB262 primarily because we're concerned about any attempt to restrict, and this again as the previous testifier noted, a broad brush attempt to restrict the use of the community development law statewide. I think what I have noticed in listening to quite a bit of testimony today is that there's a wide variety of communities in the state of Nebraska that have a wide variety of needs. The needs of Hastings and Norfolk and North Platte are different from those of Bellevue and Lincoln and Omaha. So our concern is that any restriction on tax increment financing and the use of the community development law to diminish local control or local ability to manage that program to suit its needs is a concern. As previously noted, I remind the committee that unlike Senator Groene has stated, the developers and property taxes are still paid. No one is abating property taxes, no one is avoiding property taxes. The developers and the owners of the property still pay their property taxes in full. Further, it was implied that nobody builds without TIF. I can say at least in Omaha, and I think in Lincoln, there's millions of dollars of development that go on every year that don't...that aren't supported by TIF. TIF is utilized to support development in areas where it is far more problematic, it is more difficult, it is less likely to occur. You know, this bill would be an issue for the city of Omaha because it would cause us some problems in developing in places like north Omaha or in recently annexed areas with a substantially aging infrastructure. Lastly, I will close my remarks with addressing one other comment, and that was that TIF doesn't support mom and pop projects. Even in the city of Omaha we use tax increment financing to support projects that utilize as little as \$200,000 in tax increment financing. We've recently used tax increment financing to support the Fair Deal Cafe in north Omaha, which has brought back the only grocery store in that neighborhood in years. We have used it to support efforts by Habitat for Humanity to redevelop housing in north Omaha. We have used it to redevelop the (inaudible) Street corridor in a way that has not been done in years, and even provide senior housing in north Omaha. These are all projects that utilize less than half a million dollars in tax increment financing. Small projects, but definitely very needed projects, necessary projects. And projects but for example like the Fair Deal Cafe that will spur additional development along 24th Street in a neighborhood that greatly needs it. And with that, I will close my comments. And I'm available for any questions. [LB262]

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SENATOR HANSEN: Great, thank you. Are there questions for Ms. Taylor? Seeing none, thank you for testifying. Welcome. [LB262]

GRAYSON PATH: (Exhibit 28) Thank you, Senator Hansen. And thank you for this opportunity to speak today to the committee. My name is Grayson Path, G-r-a-y-s-o-n P-a-t-h. I'm the city administrator of Nebraska City. The city of Nebraska City has just recently approved an updated general redevelopment plan, following closely the guidelines laid out in the community development law, which has declared certain areas both within and outside corporate limits to be blighted and substandard. This plan, following the stated purpose under the community development law under 18-2102 is to eliminate areas declared blighted and substandard by partnering with the private sector to install the necessary public infrastructure, literally paving the way to economic growth, housing, recreation opportunities, and jobs. The use of tax increment financing, or TIF, under 18-2147 makes this partnership happen. As in the case with Nebraska City, areas in need of redevelopment are not limited to corporate limits. Blight and substandard conditions exist outside of corporate limits as well. Tying this fact with the fact that citizens desire to see their community grow and prosper, the power of 18-2123 as it currently exists in statute is such that communities can now take areas outside of existing corporate limits, remove the blight and substandard conditions that do exist, and allow the opportunity to grow the community economically, financially, and recreationally. Speaking to our own situation in Nebraska City, we currently have landowners who requested by petition to be annexed within the corporate limits just so they could develop their property using TIF. We are in the process of annexing their land for them so they can get to work removing the blight and substandard that exists on their property, improving the value of their property, and improving our community as a whole. They had a vision of adding development to our community, such as a hotel, an affordable housing unit, a strip mall, and a gas stop, which is much needed in that portion of town. By using TIF in these areas previously outside of the corporate limits we can now work towards addressing key issues such as housing, job shortage, and certain amenity shortage in our community. It is our understanding that the proposed LB262 as written these landowners, as well as any other landowners outside of corporate limits, would have to wait another 40 years, to once annexed, before they can use TIF to develop their blight and substandard properties. The citizens of Nebraska City, as well as the landowners such as these, want to see their quality of life, their economy, and job growth happen now, they do not wish to wait 40 years. Therefore, I urge this committee and the Legislature to maintain the integrity of the law as it is written today, to oppose LB262, and to continue to give our local citizens the power and the ability to do what is right for their own community by strengthening local control. I would take any questions you have. [LB262]

SENATOR HANSEN: Thank you. Are there questions for Mr. Path? Seeing none, thank you for coming to testify. [LB262]

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GRAYSON PATH: Thank you. [LB262]

ERVIN PORTIS: Don't you think it's warm in here? [LB262]

SENATOR HANSEN: It is. The HVAC repairs don't start for another year. [LB262]

ERVIN PORTIS: (Exhibit 29) Yes, it does. Thank you, Mr. Chairman. I'm Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s, city administrator in Plattsmouth, and I'm here representing the city of Plattsmouth and the Nebraska League of Municipalities in opposing LB262. I think there's been a couple really, really important comments that I'd like to direct you to. And I understand he's well-intentioned, but I'm just going to respectfully disagree with Senator Groene. He said that developers were coming anyway, please keep that in your brain. And Mr. Seacrest, and it was good to hear him talking, and he's represented a number of small communities. Well, let's use Plattsmouth as one of those small communities, and he's not represented us, we use Baird Holm for our TIF. And in the diagram I'm giving you is, you know, I'm a little bit dimmer than Mr. Landis, I'm a pretty simple guy. So I was printing something off and hand-drew in some circles and some comments and I'll direct you to those. But that's my simply brain at work. Plattsmouth, prior to 2010, we were losing population and we'd been losing population for a number of years. Prior to 2010, we were at 78 percent retail leakage, 78 percent of our people were spending their dollars outside the community, we're a bedroom community. Our previous commercial development of any significance was 1989, and it was a Pamida store. Prior to 2010, actually prior to 2016, we'd had no new housing development of any significance in more than 20 years. Probably somewhere between 25 and 30. So as Mr. Seacrest said, small communities are losing, and we were one of those. 2010 we had a very deliberate conversation about tax increment financing--does it provide value to us, does it not, what's the right way to use it. And we came to the conclusion it does have value, and I'm going to point you to two examples, both of which were vacant land. Portions of them, in one case, all of them inside the city and had been for many years. Another one, portion inside the city, but another piece of it outside and we had to annex it. And we annexed it at the request of the developer. But the first one was Westside Commercial. Westside Commercial in 2010 or 2013 we had a base valuation of \$343,000, today we're at \$7 million, 100 full-time jobs and 200 part-time jobs, with an expected valuation on the completion of the TIF period of \$15 million. And I'm hopeful within just a few weeks of being able to add another \$2 million to that \$7 million. Wouldn't have happened without tax increment financing, and it's on vacant land but, you know, Plattsmouth...well, in any small community there are challenges. In Plattsmouth you can go from a flat grade to a 13 percent grade within 150, 200 yards. So the cost of the install of infrastructure is extremely expensive. So in our case, it's just not possible to do that under a general fund appropriation or a general obligation bond that the taxpayers would pay for many, many years and not get any additional projects. The other project that you see on that diagram, again also vacant land, Meadow Heights subdivision. Mr. Ray conducted the blight and substandard study for us. That's a single-family residential

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property project where the developer will build up to 60 single-family homes of assessed valuation of \$218,000 over a period of 20 years. We haven't had anything like that in 20, 25, 30 years. The other thing we know is that when people achieve their peak earning power they move out of Plattsmouth because we can't provide that kind of housing. And there's a nexus between Meadow Heights and the Westside project. When Westside, and it isn't entirely commercial or retail, but when the big box that was part of that came in, they wanted their managers to live in Plattsmouth. They couldn't find housing. And that's a common problem all across this state. We think the exclusion...or the inclusion of the language related to vacant land is exceptionally broad and very, very harmful to communities. With that, Senator, any questions. [LB262]

SENATOR HANSEN: Thank you. Are there questions for Mr. Portis? Seeing none, thank you for your time. [LB262]

ERVIN PORTIS: Thank you. [LB262]

SENATOR HANSEN: All right, we are still on opponents. So we'll take the next opponent. [LB262]

JULIE REILLY: (Exhibits 30, 31) Good afternoon, my name is Julie Reilly, J-u-l-i-e R-e-i-l-l-y. I'm the executive director of Omaha By Design, representing the organization and its leadership today. Also here with us today is the vice president of our board of directors, David Levy. Omaha By Design is a unique nonprofit founded in 2001 with the mission to improve the quality of life and contribute to vitality in the Omaha metropolitan area by protecting and enhancing the quality of both the built-in environment and the natural environment. Promoting redevelopment is a major element of our strategy to accomplish this mission. Omaha By Design strongly supports the protection of existing redevelopment financing tools such as tax increment financing. And one of the things that's unique about Omaha By Design is we work across all sectors, so we work with our colleagues and partners in city government, we work with developers, we work with the finance community, the legal community, and we also work with neighborhoods, we work with businesses, and we work with neighbors. And through this collaboration we understand that urban redevelopment will not occur at a rate that we need without meaningful financial tools and incentives. Redevelopment projects generate important benefits such as the utilization of existing infrastructure, tax base enhancement adjacent to redevelopment, efficiency in providing municipal services, lower transportation costs for families and businesses, stronger urban neighborhoods, urban environments that attract and retain professionals, and job creation in the areas of our cities that need it the most. So we would encourage you to oppose LB262 for creating unnecessary limitations on a city's ability to grow using TIF. And also, in the interest of saving time, I'd also like my testimony to apply to LB489, which would limit the use of TIF for needed public improvements, which is one of its purposes;

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and LB597, which would introduce significant delays into every TIF project and violate the Nebraska tradition of local control of land use. So on behalf of Omaha By Design, we urge you to oppose these three bills. To protect TIF is our primary effective incentive for revitalization of urban areas in Nebraska. Thank you. [LB262]

SENATOR HANSEN: (Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 27, 31) Great, thank you. Are there questions from the committee? Seeing none, thank you for testifying. Are there any further opponent testimony? Seeing none, is there anybody who wishes to testify in the neutral capacity? Seeing none, we welcome up Senator Groene to close. And as Senator Groene is coming up, I'll read in some letters for the record. We have a letter of support from Greg Schultz...Gene Schultz, thank you. A letter of support from Denise Richards; a letter of support from Brenda Ray; a letter of support from Mary Spurgeon; a letter of opposition from Omaha By Design; in opposition from Homebuilders of Lincoln and the Metro Omaha Builders Association Coalition; and a letter of opposition from the United Cities of Sarpy County; one of opposition from the Nebraska Economic Developers Association; one in opposition from Mayor Jean Stothert, city of Omaha; and neutral letter from Nathan Leach; and a letter of opposition from the city of Bellevue. When you're ready. [LB262]

SENATOR GROENE: Thank you, Senator Hansen. What you heard here was a lot of the end justifies the means. We need economic development, we need housing. I need to get to Lincoln in a hurry when I come down here 250 miles, so the speed limit shouldn't be 90 miles an hour and I should be able to go 90, because the end justifies the means. Present statute says it has to be in the city limits for 40 years to be considered blighted. Is that land substandard? Probably. It doesn't have curbs, it doesn't have streets, it doesn't have sewers. I will refer back to the constitution amendment, "substandard and blighted." That's critical. Redevelopment law says "substandard or blighted." Yes, you can take land outside the city and put it in a redevelopment plan and the city can have an extra...put a mill levy to fund it, they can take it out of the general fund to fund it, but it has to be blighted also to get TIF. And it has to be in the city for 40 years to be blighted. It is not. That's what the Supreme Court said in Fitzke and the Attorney General agreed. I forgot about that, because it was so ambiguous, but when you read the Supreme Court's...the Attorney General, excuse me, the Attorney General's Opinion, "it may not be added," this is what the Fitzke case said, "not be added to the existing redevelopment unless it is established that the additional land itself is blighted or substandard." That's into the redevelopment plan, not talking about TIF. TIF has to be "and," that is the problem here, it has to be "and," it has to be both. And at the end of the Attorney General's Opinion, it says the question of whether TIF may be used in connection with the acquisition, planning, preparation, and redevelopment of undeveloped vacant land under 13-2123 is not certain. You may wish to pursue clarification legislation. And Senator Groene is sitting here trying to do that. I heard from our recent hire of our economic development director in North Platte, Mr. Person, he was not there when the Walmart distribution center was...came to town. I was. Advantage Act brought them, period.

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They wanted...if you look at the records, there was never a Walmart distribution TIF, never was. It was DEVCO, the development corporation did a TIF on 300 acres. They went to Walmart and said, if you let us TIF you, we're going to use the funds to buy 300 acres of farmland, we will give you 80 acres to build your facility. Walmart said fine. There never was a Walmart distribution TIF. Maxwell, Mr. Elmshaeuser, or our Madrid ethanol plant, the major stockholder is a friend of mine. They didn't ask for TIF, they picked Madrid because of the location, it was on the outskirts of town. Right in town basically they tore some old houses down, some old railroad sitings. The village came to them and said, can we TIF you, because we'll put in a wider crossing, wider streets, heavier concrete entrance into your plant. And he said yes. He'll verify that, if you wish me to have him send you a letter. What you heard was we need housing and they want to use TIF. What I'm here for is the rule of law, we have existing law, we need to follow it. LB262 tries to clarify existing law. The problem is, unless you're a taxpayer and you want to sue and pay the lawyer, even if you win or lose you pay the lawyer, there's no oversight. None. What is happening in rural Nebraska with housing is that a teacher comes to town, it's already being done, you heard the expansion that's planned. Katie hold the door, because there isn't going to be any houses built, unless they're built by huge corporations who come in and do 80 and 100 acre plots. The small developer is out of it. The big developer is going to have a 30 percent price advantage over him because 15 years at a mill levy at 2 percent, that's 30 percent. That's what you're looking at. Run the little guy out of business. It has nothing to do with housing. Teacher comes to town, as I started to say, and buys a house, buys a condo, goes to work at the school, thinks his property taxes is supporting the school, the place he works. He doesn't realize for 15 years...and I did not say an abatement, I said they are diverted. They are diverted to some contractor in Kansas City for 15 years. He thinks he's supporting his school, he's not. His taxes are going elsewhere. TIF is a good plan, you heard the fellow from Hasting say we don't have 10 acres of vacant land inside the city. So what. So what. TIF doesn't fit that area, TIF is for urban renewal. If you need to develop outside the city then come to this body and create new legislation. But let's not abuse the statutes, let's not destroy the rule of law because the end justifies the means. Everything I heard was a good example of a good economic development, that's what we are; we're a free market, free society. Rural Nebraska is hurting. I don't know of one person, at least in my age group, that ever moved to a community because of a house. The job has to be there first, and then you worry about the home. But we got everything backwards with this sales pitch about houses. But that's another issue. The point is this: LB262 addresses what the State Attorney General said about maybe we need to clarify. It also addresses some of the issues with what the Auditor said, the laws are ambiguous. But as far as LB262, I don't think they're ambiguous. Remember "and," the word "and," not "or." "Or" fits redevelopment law, "and" fits the use of TIF. Open cornfields next to a town are not blighted. They might be substandard, but they are not blighted. Thank you. Any questions? [LB262]

SENATOR HANSEN: Thank you, Senator Groene. [LB262]

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SENATOR GROENE: Excuse me, I'm taking your job away from you, Senator Hansen. [LB262]

SENATOR HANSEN: No, that's okay. I appreciated it. Are there questions for Senator Groene? All right...oh, Senator Crawford. [LB262]

SENATOR CRAWFORD: All right, thank you, Chairman. And thank you for being up to close on the bill. So I just want to...I think you've talked a lot about rule of law, but I just wanted to clarify I think for the record, my understanding from the Attorney General's Opinion is that the Fitzke case establishes that you can't just take a vacant property and put something on that just because you went out and grabbed that vacant property. But if the vacant property is reasonably necessary for accomplishing your development plan for your blighted and substandard area, that that is what is possible. So blighted and substandard part of your community and the vacant land is necessary...reasonably necessary to accomplish that plan. So I think the Attorney General's Opinion notes that those projects are following the rule of law. I think your bill is trying to tighten that because you want those to not be allowed by law. [LB262]

SENATOR GROENE: The way I read the Attorney General's Opinion and the statute is, yes, you can add open fields to a redevelopment plan. And I agree with that. It does not address the "and" that TIF can be used. When it came to using the "and," the Supreme Court and the Attorney General said no, you can't do it. But yes, you can add the land to a redevelopment plan. That's what it says, it doesn't say TIF. It says you can add it; that's been there since 1950s. But then the city can have additional levy for that purpose. I think Kearney did it with their downtown, they had a redevelopment plan in their old downtown and they had an assessment on that area, property tax assessment, to pay for it. You can also take general fund money to do it. That's redevelopment law, prior to 1978. What they have done is blended in TIF into redevelopment law, which is not the case. TIF is a funding mechanism for a very specific area--"and blighted"...urban renewal. If you want to change it, if you want to make a new economic development for housing or whatever, fine, let's do it. But let's follow the rule of law. Thank you. [LB262]

SENATOR HANSEN: Thank you. Further questions for Senator Groene? All right, well, we'll consider that the close of LB262. And welcome Senator Groene for LB489, I believe...LB489. [LB262]

SENATOR GROENE: (Exhibit 10) Thank you, Vice Chair Hansen and the members of the committee of the Urban Affairs Committee. The State Auditor pointed out an instance in his report on his audit of TIF projects around the state in the December 20 report of the tax increment financing issued by Charles Janssen, the State Auditor, Nebraska's Auditor of Public Accounts. And the overall summary report states...the report states: "To start, certain language in

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current community development law is so broad and generic in nature that it undermines significantly any attempt to place definite parameters around the use of TIF. As noted in this letter, for instance, the lengthy definition for 'redevelopment project' found at Nebraska Revenue Statute 18-2103(12), which describes the type of 'work or undertaking' upon which TIF monies may be expended, concludes with the sweeping phrase 'or other improvements in accordance with the redevelopment plan,'" LB489 eliminates that language in Nebraska Revenue Statutes 18-2103(12) that was identified in the state audit as language that allows for "virtually anything" to be "included in a redevelopment plan may qualify for TIF revenues." Either we strike that or we strike the 99 percent of the rest of the law, because it's not necessary. Either you can do it all or anything you want, art projects, in Lincoln, Nebraska, unrelated to the TIF. You can use it for buying additional land, as they did...that DEVCO did in North Platte. Or you can do about anything you want with it. The purpose of TIF, when you look back at the history of it was it's tax dollars. One of the testifiers said that, it is tax dollars. It is tax dollars that unilateral (sic) cities and municipalities confiscate from other taxing entities. The original purpose was, all right, so we're going to fix this blighted area. The sewers are bad, the streets are bad, the streets are too narrow, the sidewalks are busted up, we need a new electrical, put it underground instead of over the top. And if we do that, developer, would you build here? That's what it was for. Steal tax dollars used for public purposes. It's been used for everything under the sun, and mainly now just given back to the developer to do whatever they feel like doing. What LB489 would do would strike that line, that one line, to clarify that everything above is what you can use it for, and not the kitchen sink. So thank you, and please consider the legislation. [LB489]

SENATOR HANSEN: Thank you, Senator. Are there questions for Senator Groene on his opening? Seeing none, thank you. [LB489]

SENATOR GROENE: Might get out of here before 8:00. [LB489]

SENATOR HANSEN: All right, we'll move on to proponent testimony for LB489. [LB489]

MARY JANE TRUEMPER: Hello again, I'm Mary Jane Truemper, T-r-u-e-m-p-e-r. I'm a current resident of Douglas County, Nebraska. In my previous testimony, if it sounded like I'm anti business or anti development, I assure you I'm not. One of the many attributes of Nebraskans that I love is the sense of fairness. TIF financing is no longer fair to taxpayers. In fact, if the general public knew how unfair TIF financing was to them, there'd be many more like me here today. Now, what about it is not fair? Number one, if any property within Omaha can be designated blighted or be made part of a redevelopment zone, what incentivizes development in the areas that meet the traditional definition of blighted, and how is that fair? The city attorney had just spoken to north Omaha and I'm glad to hear that there was some TIF financing that was done for smaller projects in north Omaha. I think if we looked at the amount of TIF financing that is done

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in Omaha, you would see that it's a drop in the bucket, the amount of TIF that's given to north and south Omaha, and the rest of the suburbs, the inner city, the urban area, capital project, those sorts of projects that I think would be done anyway...I believe that it is a drop in the bucket to those...the larger idea. TIF financing is granted by the city of Omaha, yet all the taxing bodies that make up our communities are affected: the schools, the county, the NRD, all of the 12 or 14 that are on my tax bill. The drum beat from each of these entities is more money, more money. Wouldn't the fair thing to be for those stakeholders to have a say in the process? Schools are by far the most impacted because they are the largest part of my tax bill, is that fair? Three, there's never been a number or a percentage that I've ever seen or heard that sets a limit on the amount of TIF financing a city can grant. As each TIF's designation is granted, the residential property tax payers and small businesses subsidize the tax revenue from the TIF financing. As a taxpayer, I just want to know when enough is enough. There appears to currently be no end in sight for the amount of TIF being granted. Number four, now the arguments that I hear is that the economic impact of the TIF funded developments offsets the lost tax revenue. And I do realize that it's not an abatement with the TIF financing, but this comes to that. I don't know that we have a data, a way of measuring what the impact is on those economic zones. Let's take Blackstone for instance, and I'm not disagreeing that they needed TIF, but we have a TIF district, how do we know, how do we collect data, what do we know the economic impact is of that TIF financing? And right now, I don't think there's any sort of measure and I think that that's important that we figure out how we can measure the impact and making sure that we do get some reimbursement for the money. Residential taxpayers in Douglas County, including myself, have been stunned by the increased property valuations over the last two years. We can argue whether or not tax assessor Diane Battiato inherited a mess or not, but I can't help but wonder if the valuations on the commercial properties, including TIF properties, are as out of balance as the residential properties. I can affirm that we don't know. I will give an example of one business that I'm aware of, was on the market, was valued for \$1.2 million. A developer paid over \$2 million for it, the last I had seen after they had developed the property, had the business there, the tax rate was less than what they had paid for the property, it was around \$1.7 million. I am thankful to say that I did look before I came here today and it's now over \$4 million assessed since this recent assessment. So I think that we need to look at those issues too. And I'll save the rest of my testimony until the next bill, but I do think there's a lot questions. And this between rural and urban issue needs to be addressed as well. Thank you. [LB489]

SENATOR HANSEN: Thank you. Are there questions for Ms. Truemper? Seeing none, thank you for your testimony. We'll take another proponent to LB489. [LB489]

JOHN CURRY: (Exhibits 11, 12, 13) My name is John Curry and I'm from Columbus, Nebraska, J-o-h-n C-u-r-r-y. I don't work for an economic development agency and I don't work for a public entity, I work for myself and the employees and my family. I have a little experience with TIF, going back to 2001 in Columbus, and it wasn't pleasant. I started reading a little bit about what

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had happened this summer, last summer, in Grand Island, with an enormous apartment development based on a supposed need for work force housing. And it bothered me and I looked into it and I spent an enormous amount of time trying to get to the answer. The documents that you're getting, there's a...I guess it's still coming around, but I struck up an email exchange with a professor from Wichita State University, and his name is Ken Kriz, and he's the director of public finance for Kansas and he's a regents professor. And we've exchanged ideas a little bit and in the emails that I've copied for you, there's two of them there. One is in regard to building market rate housing and whether that's a good economic investment and worthy of taxpayer subsidy. And he flatly answers no, not unless the property is severely blighted, a brown field, or just otherwise undevelopable. He also referred to the idea of using, for instance, economic development funds to just build work force housing aside from TIF, and his answer was the same. He's an expert. I don't have the answers, I do have some bad experience. Groucho Marx once said that smart people learn from their mistakes and that you can't live long enough to not learn from them. I would add to that--geniuses learn from the mistakes of others. And in California, TIF no longer exists, it was thrown out in 2012 for the very reasons that people are complaining about it here today. There's a variety of documents that I'd be happy to provide you with that cite studies by the comptroller of the state, very similar to what has happened with Charlie Janssen's report this past year. There's problems and it was declared unconstitutional. They had other issues, they were doing some condemnation that was not well-received. But in general the same sorts of problems that the Auditor of Public Accounts for Nebraska found the problems here were the same as what was discovered in California. I have repeatedly asked for anyone at our city council or our chamber, and I'm a big supporter of the chamber, I have a couple businesses and have been a chamber member in both those businesses for decades. One of them is a company that I owned part of in the '80s and '90s, now I own all of, that company has built over 500 homes in Columbus, we never used any TIF, we used available government programs as they are today. I think that red light means my time is up. [LB489]

SENATOR HANSEN: If you could just summarize your close. [LB489]

JOHN CURRY: I'll just save what left I have to say at the next hearing. Thank you. [LB489]

SENATOR HANSEN: Okay, absolutely. Are there any questions for Mr. Curry? Seeing none, thank you for testifying. Welcome. [LB489]

PAUL VON BEHREN: Thank you. Again, my name is Paul Von Behren, V-o-n B-e-h-r-e-n. One of my great problems in life is that I have a very simple mind. And as I listen to the arguments, it's interesting to listen to the arguments against LB262 because you would think that we are taking away TIF as a tool. And I think it's important to be clear that we support TIF. This is not about removing TIF funding in any regard, it's simply...if I could qualify Senator Groene's three

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bills in three short sentences: number one, requires the law to be followed; number two, requires the funds to be used for beneficial use; and number three, just allows oversight to make sure that the above are followed. It's essentially a simple subject, and I realize that my case from Fremont is the extreme, it's not typical. But it does help to look at the extremes in application to understand where the underlying problems lie. And obviously, as I pointed out earlier, we have unblighted, bare farm ground that does not meet statutory requirements for going to TIF funds. Not one eye was batted when the project is suddenly expanded by 60 percent or another \$100 million. And I think it points out a couple of things. Number one, in the process did we suddenly find all kinds of uses for those TIF funds or those TIF proceeds? No, that was just a blanket, that was just a blanket that was thrown out there to welcome a large business called Costco. Regardless of the merits, it still leaves into question the motivations. But I think more importantly there are a couple of bigger issues that really bother me with TIF. The remedy intended by TIF is largely a mirage. This will be our third meat processor in Fremont and we know very well what will happen, we don't have to give you rumors. We have a work force of approximately 300 and a business that's going to bring in about 900. And what will happen is we will see an influx, we will see elderly people sell single-family homes where there were two people residing, paying property taxes. We will see very often multiple families move in and where one home housed two adults, it now may have six adults and four or five children paying the same property tax base for a greatly expanded uses of public facilities. You can extrapolate that onto police, you can extrapolate that onto fire. The point is that if not carefully thought out, TIF allows businesses to prosper potentially, as Senator Groene pointed out, basically the large businesses that can afford to use it rather than the mom and pops that really need to be supported. And in the meantime, while we're waiting for all the benefits of those funds the schools, the NRDs, the county and city governments, any of the other 550 to 600 property tax entities in this state continue to demand increases that go on and on and on. And if you'll look at the Nebraska Department of Revenue's records from 2006 to 2014, you will see that the average for income is \$250,000 in (inaudible). Those incomes have increased about 22 percent in that period. Their property taxes of that segment have increased 45 percent. The problem is TIF funding is not fundamentally evil, but it does need to be restricted, it does need to be disciplined because it is, in fact, largely a corporate band aid for bringing in businesses that probably would have come in otherwise. We're simply asking that we put some restraint into the system, that we make it comply with the current legal limits and limitations. And if you can't do that, let's just change the law. But either way, disregarding the law is not acceptable. [LB489]

SENATOR HANSEN: Thank you. Any questions for the testifier? Seeing none, thank you again. All right, we are still on proponent testifiers. Are there any further proponents? Seeing none... [LB489]

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SENATOR WAYNE: Turning to opponents. Senator Wayne is now here for the record. Sorry, I'm in between. Today they decided to have all my bills be introduced today, so it's been fun running around. [LB489]

SENATOR HANSEN: We're glad you survived Agriculture. [LB489]

DAVID LANDIS: (Exhibits 14, 15, 16, 17) Members of the Urban development...Urban Affairs Committee, I'm sorry. David Landis, the Urban Development Department director with the city of Lincoln. L-a-n-d-i-s is the way my last name is spelled. One of the last testifiers said, you know, we need to discipline TIF because some of this work, a lot of this work would have happened anyway and therefore it distorts the marketplace and it prejudices other taxpayers. The long list of people who are opponents to these bills, and they don't necessarily rifle in on exactly the topic that's there, what they're generally saying is this: we're on the front line, we're trying to make small towns work, we're trying to make cities that haven't had much growth work, we're trying to build Lincoln, we're trying to build Omaha, and we're the people on the front line trying to make that happen. And what we tell you is we are not prepared to make the same bet that the last speaker is willing to make. He makes the bet that, you know what, it's going to happen anyway, so there really isn't any harm. The people in the front line aren't. With respect to what we just handed out, I think that little section of land...or provisions is important because what you have in the law now is a goal, and that is that TIF money needs to be spent for public benefit or public enhancement, that's it. It can't be spent for just a private enhancement, it has to be of public benefit. Then it lists out 12 things and then it has a catch-all at the bottom. But all of those are a catch-all to whether or not there is a public benefit. Now I'm handing out to you and you've got to see some things that we've done with TIF in Lincoln, Nebraska. We think that spending diverted tax dollars...by the developer's diverted tax dollars, to demolish this and build this is a public benefit. Will the developer make money on the project? I can only hope he will, it won't happen if he doesn't make money. When these substandard houses were brought down and this long strip mall that was very, very tired was replaced by this, we think that was a public benefit. And the money spent to do that was inside these existing law. When this section behind North 27th was cleared up, demolished so that this structure could be built, we think that's good for the city of Lincoln and there's a public benefit. Now, if I'm wrong and you take a look at that and you don't see a public benefit, then there is a gulf between us, because we do say that. We go a little bit further than that, we also think it makes a difference what the neighborhood is left like. This is a shopping mall that was less than 50 percent occupied until they did a handsome redoing of a number of the parts of the project, but one of it was the facade. And this is what it looks like now, and now it's 90 percent occupied and it's a neighborhood center in a way that it wasn't. We think the money that we help spend making this handsome for above grade or normal was a public benefit. If you wanted to build this project which we are building, you could build it so it would look like this, it's called efface. Efface shows wear quickly. We think one of the essence of the TIF law is that it not only get rid of dilapidated projects, but you also work hard to make sure

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that they don't come back. You want dilapidation not to come back, build with high quality building materials, longstanding masonry instead of efface, brick instead of plywood. You want something that lasts and keeps that gone, you invest in higher-quality facades. Now they're not listed in that 12 lists, but I ask you if there is a public benefit. And by the way, if you live across the way from this, if you're a business across the street, which one of these is better for you as a neighbor for your business, as a neighbor? I think this is a benefit and we believe that. This would be a standard structure that we'd build with code, this is what that structure will look like under what we're now designing. We think there's a difference in these two when you're a neighbor or in the area. To the extent that that's been tested, you've got the Midtown Crossing in Omaha, where Ernie Goss, the economics professor at Creighton University said look, don't take a look at the project, take a look at what happened around the project and see what happened. And here's what he found, after the project was done, in the middle of a drop in Omaha generally of 12 percent valuation, the valuation of the surrounding three block perimeter of that project went up 20 percent. In fact, they found that building permits went up by 435 percent when building permits in Omaha were dropping. In other words, there was a public benefit in the halo effect around the project. It wasn't just the project itself, it's because building your...being next to a beautiful building like this is a public benefit for the area. You can build this a lot cheaper, you can build it so that it will start to show its wear a year from now. You can build it so it will look old in 10 years and it will still be code. You won't be able to say that if you build like this with a higher-end materials. We think that's a public benefit. Now if we're wrong, our public can be happy to vote us out of office or come to the five public hearings, all of these which are in your notes, of the public hearings that are being held on these projects at one point or another, and tell us how wrong we are and stop us and tell us stop, go back, this is a boneheaded move. And every now and then, people get organized and they do exactly that. I think you've heard a testifier from Omaha said, you know what, we didn't like it. We went to the public entity, we went to the public hearing and we stopped that hearing. Fair enough, that's politics. But that's what we do, we work at the local level to make our city work. And we'd like a little trust if we could. [LB489]

SENATOR WAYNE: Thank you for your testimony and welcome to the Urban Affairs Committee. I didn't get to say that to you today. [LB489]

DAVE LANDIS: Thank you so much. [LB489]

SENATOR WAYNE: Any questions from the committee? Senator Riepe. [LB489]

SENATOR RIEPE: Thank you, Chairman Wayne. Mr. Landis... [LB489]

DAVE LANDIS: Yes, sir? [LB489]

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SENATOR RIEPE: ...I applaud you because you obviously know what you're talking about, so it's nice. My question is this, do we need to have two bills: one that cleans up so that, you know, in accordance with what Senator Groene is saying, we do abide by the law, which is maybe a whole different vehicle to economic development; as opposed to trying to do the incremental financing of the need for rehabilitated projects? [LB489]

DAVE LANDIS: Let me separate, because there are two ideas there at least, maybe more. [LB489]

SENATOR RIEPE: Probably two. [LB489]

DAVE LANDIS: Does the city...do cities need more economic development tools than what they have? I think they do. That would be a good place to look. We're hard-pressed to come up with it, compared to other states, because of our constitution. It creates a uniform of proportionate clause that doesn't allow us to distinguish these situations and to give economic development benefits like other states do. If we do that, we have to do it by a constitutional amendment and there's only been about five of them. By the way, if the complaint is that TIF manipulates or distorts taxes and property taxes, there's a much bigger distortion, and I bet we all support it, it's the lower property valuation for farmland. Where that land isn't valued at 100 percent, like the uniform proportionate clause, it's valued at below 80 percent. But why do we do it? Because farming is in trouble on taxes and we want to help, and we passed the constitutional amendment to do exactly that. And it passed in the urban areas as well because we said farmers get a break, they deserve a break, and we know we've got a constitutional principle, but we're going to give them a break because it means something important to them. The distortion in our school formula is infinitely larger for that than it is here, but we don't even think about that. Why? Because we agree with the underlying reason that we did that. Now, this same bill came from a constitutional amendment, the Legislature didn't create it, the public did. And they said this is a legitimate purpose to make a variation in our tax law. So I give that some credit. I read, just as I was sitting there, a second time the Attorney General's Opinion. If you heard Senator Groene, I think he's saying basically, look, it's the rule of law, we're violating the rule of law. I just read the Attorney General's Opinion and it says at most, look, it's hazy, but it does not say that we are violating the rule of law. If the Attorney General said that, I think he would have a much better, you know, a much different reaction to it than what you've had. What it says is, you know, you might want some additional clarification, but it doesn't say the law is being violated. To that extent, I think Senator Groene sees it that way, but I think he's taken a step beyond what the Attorney General said, and he's taken a step beyond I think what the Auditor has said. When...has said basically, you know, you could use some clarification. Rule of law is a pretty significant phrase. I get the idea that says we could do better, we could use more clarification, this is unclear and it ought to be tighter. That's one argument. You are breaking the law is a different one. And so in answer to the second part of your question, I don't accept the principle

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that this is about the rule of law. I do accept that it's a wrestling match about the need for clarification. Fair enough. No holds barred, entirely legitimate. But I don't think either, you know, I don't think the Attorney General is saying that the state of Nebraska's actions are in violation of the law. But that's how I read it and I welcome your interpretation. I'd probably find it valuable if you can give it to me, I just don't see it when I read that letter from the Attorney General. [LB489]

SENATOR RIEPE: Okay, thank you. [LB489]

SENATOR WAYNE: Any other questions from...Senator Hansen. [LB489]

SENATOR HANSEN: Thank you, Chairman Wayne. Thank you again for testifying, Mr. Landis. A couple of times various testifiers, and I think Senator Groene, brought up the impact that TIF has on other political subdivision and I'm just reflecting on the testifiers on LB262 and my past experience serving in the Urban Affairs Committee. I think we've rarely if ever had another political subdivision come in and register an opinion on TIF either for or against, which in my mind leads me to deduct that they don't view the impact as significant. From you and the city of Lincoln's perspective, how do you work with other political subdivisions? [LB489]

DAVE LANDIS: Right. By the way, if there was a uniform perspective among the schools that TIF was antithetical to good schools, they'd be here, wouldn't they? They're not shy, they're well-organized, they know how to throw a punch. And they're not here. By the way, the Lincoln Public School system is held in very high regard in my community and about 10 or 12 years ago they said, you know what, we don't particularly like something that you just did. It happened to be the creation of some single-family housing in a subdivision that didn't otherwise exist. And they said, you know, those new houses are going to send kids to our school and we're not going to have new resources to help that out. And we said we won't do it again. And the last 10 or 12 years, we've never violated that understanding. And every now and then we go out and show them a project and we say, what do you think. And they say, that's okay. We send them the official notices that are required by law, but we go a little bit beyond that when we're on that, you know, the edge where they've told us. We abide by that. Not because we have to, but because we coexist with them and because the schools know this: in this period of time, before TIF, the valuations were low. Then during the TIF period, \$7 million was diverted...and Senator Groene and I agree on the right word, we both use the same phrase, it's diverted. Instead of going into the general fund of all of the political subdivisions, it went for the projects, and the total of that was \$7 million. It helped those projects occur. We had to wait for a delayed thing, however, when it came out and went up, it was this effect. It went from a little amount of money to a big amount of money. It went from \$498,000 a year to \$4,200,000 a year. This yellow area, which is where the TIF projects that are now contributing, have done a total amount of contribution of \$45

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million. If you're the Lincoln Public Schools and you have 65 percent of that, what you've made in the growth in valuations in my city since these TIF programs occurred is over \$30 million. That's why the LPS is not down here saying TIF is a bad idea. What's happened in this yellow period is they've made \$30 million of new property taxes from the growth that we spurred. We invested \$7 million and so far we've gotten \$45 million back and we get a little over \$4 million every year. So next year it will be \$49 million and then \$53 million and then \$57 million. If they were angry with us, we'd know it. But there's a reason why they aren't. [LB489]

SENATOR HANSEN: Thank you. If I may, I have another. [LB489]

DAVE LANDIS: Don't you want to get me out of here? I can just see it, where's my dinner plans with my spouse. [LB489]

SENATOR HANSEN: If we have to be here, you have to be here. (Laughter) No, thank you for that explanation. And then my other question is there's been some talk on the development would have happened anyway. Are there any projects in Lincoln, and I know we've talked about this before, are there any projects in Lincoln where TIF was discussed but not used. And did those projects actually come to existence? [LB489]

DAVE LANDIS: Yes. I made a list one day, because it's something that doesn't come out in the public. What happens is when we say no, you never hear about it. Somebody walks up to us and said, what about this project. And we say, we don't think so, wrong area of town, we don't think the area is blighted, that's not a use that we would find appropriate. I think I calculated, since I've been there, maybe 14 of those circumstances I remember. Out of those, none of the 14 have been built without us except one. One was a hotel. However, they didn't build the hotel in Lincoln, they went to Omaha and built it in Omaha. In other words, out of 14 projects, we said, you know what, we don't think this fits, we're not going to help, none of them basically said okay, we'll do it without you; we don't really need you, it was nice, frosting, but you know, we like the cake. That's okay, we'll live without you. Hasn't happened yet. Now, might there be? Yes. Am I saying everything wouldn't have happened? No. If you held property would you do something with it? Yeah, you might build a convenience store, you might build a storage unit, but you might not build a five-story multi-use residential project. It...you can't run a river twice as a control unit to see how it was going to be without it. So that's what makes it hard. All of these are indicators, but there's no factual answer I can give you, Senator. [LB489]

SENATOR HANSEN: Absolutely. Thank you for sharing your experience, though. [LB489]

SENATOR WAYNE: Any other questions from the committee? Well, you brought up uniformity and proportionality. [LB489]

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DAVE LANDIS: Yes, sir. [LB489]

SENATOR WAYNE: There is a constitutional amendment on that this year in Revenue and so if you're going to, you know, support it, you can say yes now. If you're not, just kind of inaudible for the record when I read it. (Laughter) No, it's currently in Revenue. And so my question is if something like that were to happen and that got through, could some of Senator Groene's concerns, and they are legitimate concerns, I've said this multiple times, Omaha, as long as we continue to TIF 108th and Dodge it's hard for businesses to go to north and south Omaha when they can go out west in a different area that we TIF. So there is a concern there. So would that be a tool that we could later use to help get away from TIFing what was considered to be an urban renewal area? [LB489]

DAVE LANDIS: I actually will be this positive, but not crystal on one side or the other. In the event that was successful ultimately, you could design a variety of economic development tools that other states have that we are constitutionally not allowed to consider. And to that extend, if there's a pressure in pulling TIF off of its community redevelopment base to which economic development...by which is I think part of the scenario that Senator Groene sees present in that what I believe he sees as the distortion of the original intent. The rationale to do that would disappear. The difficulty is that there's another line of argument that you heard from the proponents of these legislation, and that is you're picking winners and losers, don't do that, get down to neutrality. And in fact, what that allows us to do is more of the kinds of things that we do to the farm community when we lowered the valuation on farm land. And now we can do it based on 25 votes and passing a law in the Legislature. So there is...that is a path to get to new economic development tools that are otherwise hard to imagine currently, and which is why you're seeing that you are not besieged with economic development tools coming from cities. It's hard for us to imagine what they are because they make use of that idea. [LB489]

SENATOR WAYNE: Thank you. Any other questions from the committee? Seeing none, thank you for coming today. Next proponent...opponent, sorry. Opponent. [LB489]

CHAD NABITY: Thank you very much, Mr. Chairman. I'm pleased that you realize I'm here in opposition. My name is Chad Nabity, that's C-h-a-d N-a-b-i-t-y, I'm here representing the city of Grand Island, and I may address some of the comments that were made about Grand Island earlier, but they were not part of what I had prepared. What I wanted to speak on specifically with this is, especially in light of the criticism of Lincoln with the State Auditor's report and some of the uses that they have used TIF for and the way they've used it and that catch-all language. Specifically, Grand Island is looking at doing some of those similar things, we have a business in downtown Grand Island that has 100 employees. They occupy an existing building, they want to build a brand new building in downtown Grand Island. There has not been a brand

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new building, other than a pole shed, built in downtown Grand Island, in probably the last 40 years. I mean, this is a big deal. And they don't want to build a pole shed, they want to build a building that is equivalent of the buildings that were built in the 1880s or the 1950s that are brick, that are designed to fit into the area, a four-story building. This is the kind of thing that would protect and enhance an existing business with 100 employees in our downtown, and they're continuing to expand, and they need the space to expand. This would help them if we could do some of the things Lincoln has done with the enhancements to those buildings and using tax increment financing for those purposes. A hundred additional employees are keeping 100 employees in downtown Grand Island? That's huge. That's 100 people that are there every day, five days a week, 40 hours a week at a minimum, and then supporting all of the ancillary businesses in that downtown. They will be moving out of downtown Grand Island starting at the end of this year. They're losing their lease on their existing space, but their intent is to move back in. They would like to move back in within two to three years, that gives them time to build the kind of building they're talking about. And they want a keystone premiere building in downtown Grand Island and something that will support the public amenities, public bathrooms, possibly a sound control room for the plaza that's in downtown Grand Island, and additional housing in downtown Grand Island. That's one of the reasons that we would oppose this, is so that we can continue to do those kinds of projects or start to do those kinds of projects. There was a question asked about what would happen without TIF, would the companies come in. We did a project about eight years ago, a veterinary clinic. The veterinarian came into my office, said I'm going to build my vet clinic here, I need to use TIF. Now, what she said was I'm going to build a vet clinic here, if I don't get TIF, I'll build a 3,500 square foot clinic that's big enough for the office that I have right now. I don't need any more, this is a good spot for me. If I get TIF, I'll build a 5,000 square foot clinic, I have two vets right now. Currently, that veterinarian has four vets on staff. That's basic, good economic development for the community. The thing that I really want to, I guess, touch on at the very end of this is the parameters are placed locally by locally-elected officials. Those decisions are made locally and they impact other local taxing entities that we work with and that we have to work with and have a relationship with. All of them, everybody is involved in that. With that, I would take any questions you might have. [LB489]

SENATOR HANSEN: Thank you. Are there questions for Mr. Nabity? Senator Quick. [LB489]

SENATOR QUICK: I just might ask if...and thanks for being here. [LB489]

CHAD NABITY: Certainly. [LB489]

SENATOR QUICK: And you'd expressed an interest in maybe addressing some of the issues that have been brought up about Grand Island. Was there anything you wanted to specifically talk about? [LB489]

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CHAD NABITY: Thank you. The specific issue, the apartment complex that was brought up. This is an apartment complex 200...I'm pretty sure I know exactly which one it is, given the time frame, 288 potential apartments in Grand Island off of South Locust, in an area where 20 years ago there were ball fields, a private softball field at that location. No sewer, the water was difficult to reach, sewer had to be extended around a lake to reach that property. And there have been no new apartments, major housing in that part of Grand Island for 40 years. There's a brand new Walmart, I say brand new, it's 10, 13 years old now, right across the street. Everybody thought that was going to spur all kinds of development, it didn't happen. Their out lots in front of Walmart are completely undeveloped. Why? Because we haven't had much housing at that end of town, it's all been three and a half miles to the north and west, at the other end of town. Were we looking at encouraging other types of development at the other end of the city? Yes, we were. And one of the ways you do that and the ways you attract that commercial development is by rooftops. How many new rooftops do you have? What's our customer base? That's where that comes from. [LB489]

SENATOR QUICK: Thank you. [LB489]

SENATOR HANSEN: Thank you, Senator Quick. Any other questions? Seeing none, thank you for coming down. [LB489]

CHAD NABITY: Thank you. [LB489]

SENATOR HANSEN: All right. Welcome. [LB489]

JENNIFER TAYLOR: Good afternoon, Senators. Okay, we're still afternoon. My name is Jennifer Taylor, J-e-n-n-i-f-e-r T-a-y-l-o-r. I'm assistant city attorney for the city of Omaha here on behalf of the city of Omaha. First and foremost, I'd just kind of like to mention again the concern that the city has with this particular bill is it's a general broad, blanket statewide restriction on the use of TIF. It takes away the flexibility of individual communities to appropriately use tax increment financing to address their own individual unique needs. LB489 presumes I guess that the communities across the state are not using TIF appropriately, that they aren't using it for the currently dictated eligible expenses. And I'm not sure even the Auditor's report would support that. That makes LB489 possibly a solution that's really looking for a problem. I would like to point out that the language that's stricken in LB489 states that in addition to the other improvements that are allowed under that subsection as eligible expenses, other improvements "in accordance with the redevelopment plan." So it is not just a throw anything and the kitchen sink in there, it has to be "in accordance with the redevelopment plan." The redevelopment plan, which has public hearings, public input, has very specific elements to it. In fact, the redevelopment plan is defined in the next section as being one that has to conform

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with the general plan for the municipality, as well as very sufficiently completely indicate a number of, a laundry list of items that have to be included in that plan. So it's not just a blanket catch-all that allows you throw the kitchen sink into eligible expenses, it has to be done in accordance with the redevelopment plan. I'd like to note one of the comments that was made by a proponent was that all this does is clarify that funds used for tax increment financing or eligible expenses should be for beneficial use. Mr. Landis is correct, they should be for beneficial use or a public benefit. Removing this language from the current community development law, our concern is that in the city of Omaha we have a very detailed 19-page list of guidelines that we adhere to when we review tax increment financing applications. Part of those guidelines include not requirements or goals of the community development law, but ones that we set out for our community as a whole. And those goals are independent of what's required in the community development law, and they include things like historic revitalization. We encourage historic revitalization and we encourage its use with the use of tax increment financing. For example, the Colonial Hotel, in the Blackstone District, the developers would tell you that it was much cheaper and easier to knock it down and build something new. But instead, they have taken the old hotel and they have rehabilitated it, revitalized it into a new housing project in that area. Another thing that we have as a goal is to support and encourage sustainable development. We encourage projects that have energy conservation, that improve high levels of air quality, materials, fixtures, designs, etcetera that assist in actually making our community better. We encourage the utilization of urban design guidelines. I'm sorry, I'm hot. And that includes things like increased building transparency, along sidewalks, design, quality of materials, trees, lighting, additional landscaping on parking lots. And then I think finally, and most importantly, transportation and mobility solutions. We encourage our projects to implement multi-modal transportation options. What that does, particularly in the areas where we utilize tax increment financing, is it increases the ability for us to have dense projects and a level of density in the urban areas that actually increases the overall tax base, which is then beneficial to the county as a whole, by increasing the tax revenues that come in. And we can only do that if we encourage dense development, which is only enabled by transportation. So these are some of the items that we encourage our projects that come and apply for tax increment financing to employ these things that I think would be included in something like the other improvements that would be in accordance with the redevelopment plan. And lastly, I'd just like to note one of the proponents indicated that there is no cap, there's no end in sight for the use of TIF. And I just would like to note that there is in the law a cap on the amount of area and valuation in our city that can be substandard and blighted. And therefore, there is actually an end in sight and there is a cap on the use of TIF. I'm available for any questions. [LB489]

SENATOR HANSEN: Thank you. Are there questions for Ms. Taylor? Seeing none, thank you for testifying. Welcome. [LB489]

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DAVID LEVY: Thank you very much. Good afternoon, Senator Hansen and members of the committee. David Levy, D-a-v-i-d L-e-v-y; Baird Holm law firm here as registered lobbyist for Turner Park north and East Campus Realty, which are the owners and operators of the Midtown Crossing project in Omaha. Also testifying on behalf of the Nebraska Association of Commercial Property Owners, of which I'm a member of the board of directors. I will be brief, one of the good things about going late in the lineup is that others before you have made the points you were going to make, and hopefully that means they were good points, and they made them well. The one additional point I do want to make, and Senator Riepe, this goes a little bit to your question about additional incentives. And while I agree with Mr. Landis that our constitution limits some of the things that we could do in terms of additional incentives, we have developer clients in Omaha who come to us and do projects in Omaha and Lincoln, they also spend their money and make their investments in Missouri and in Kansas and in Iowa. Real estate development is a competitive environment. And in Nebraska, really, we have tax increment financing and we have historic tax credits, we have state new markets tax credits. That's about it in terms of direct incentives for real estate development. If you go look at the city of Kansas City economic development department for real estate development incentives, redevelopment incentives, you find a four-page list with 15 independent programs of redevelopment incentives. So this is what we in Nebraska and our communities in Nebraska are competing against for investment dollars, both for our own Nebraska companies and developers and investors, but also if we're trying to attract those from other states and actually grow our economy and relieve our tax burdens through growing our economy. We need to attract that investment from other states. We are not terribly competitive, frankly, when it comes to redevelopment incentives. LB489 and LB262 and LB579, all of which my clients oppose, would severely limit the incentives we do have. So I think the question today isn't can we do more incentives--sure, I think we can, and competitively we may need to--but these bills would take away from what we already have and I think that would be a tremendous mistake and would undermine our competitiveness for investment dollars in our state. And with that, I'd take any questions. [LB489]

SENATOR HANSEN: Thank you. Are there questions for Mr. Levy? Seeing none, thank you. [LB489]

DAVID LEVY: Thank you very much. [LB489]

SENATOR HANSEN: All right, are there any further opponents to this bill, LB489? When you're ready, yes. [LB489]

GARY PERSON: (Exhibit 18) Vice Chairman, committee members, Gary Person, spelled like person, G-a-r-y P-e-r-s-o-n, president and CEO of the North Platte Area Chamber and

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Development Corporation. I also am speaking on behalf of the Nebraska Economic Developers Association, a 300-member professional association that represents all corners of Nebraska. Just wanted to enter written testimony and go on the record that both the NEDA association and the North Platte Area Chamber and Development Corporation are opposed to LB489 for all the various reasons that have already been very eloquently put forward. [LB489]

SENATOR HANSEN: Thank you. Are there any question for Mr. Person? Seeing none, you're off the hook. More opponent testimony. [LB489]

LYNN REX: Senator Hansen, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I know that you've had a very long day this afternoon, but I'd just like to underscore a few of the points that you've heard on this bill in terms of why we are strongly opposing it. First and foremost, Nebraska has one of the most restrictive TIF laws across the country, barring none. I can remember a conversation I had with the city administrator of South Sioux City several years ago, and they had just lost a major company. And I said, well, Lance, what happened? He said, Iowa wrote them a check. That's what we're competing against. And I think this is what David Levy was trying to say, when you look at what other states around us are able to do, Nebraska has just very limited tools. We've got fortunately tax increment financing, which is our most important tool; we have LB840, which for...oh my goodness, so many cities in this state, they have to had voter-approved plans to allow them to have their...basically forge their own destiny with the types of programs that they would like to have, subject to those voter-approved plans. But Nebraska has to be competitive. Several years ago, when we were looking at the issue of the 15 years, and this was LR29CA, which was a bill that Senator Greg Adams at that time put in on behalf of the League, and that bill made it to Select File, and he chose not to pursue it at that point. But what I can share with you is that we did a survey at that point on how many cities went the full 15 years. And although most of them put the 15-year requirement in the proposal, they actually only went 7 or 8 years. Very few of them went the full 15 years. However, there are some big, big projects, whether it's Google or Facebook, where you might need 20 years or something more. Nebraska, we only have 15. So again, this is about being competitive. And as Dave Landis said, I just want to underscore the point that these are for public benefits. If you look at the language again on page 5, lines 11 through 12 that would be stricken, which would be: "or other improvements in accordance with the redevelopment plan." As Jennifer has said from the city of Omaha, as Dave Landis has underscored, if you look at this, this is not just a blanket type approval, this is something that has to directly relate to public benefit and it modifies everything above it. With that, I would be happy to respond to any questions you might have. I really appreciate your endurance this afternoon and really appreciate all the time and effort you're committing to this very, very important effort. [LB489]

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SENATOR HANSEN: Thank you, Ms. Rex. Are there any questions? Seeing none, thank you. [LB489]

LYNN REX: Thank you very much. [LB489]

SENATOR HANSEN: Great. Are there any further opponent testimony to LB489? Seeing none, is there anybody who wishes to testify in a neutral capacity? [LB489]

CINDY JANSSEN: Good afternoon, Senator Hansen, members of the Urban Affairs Committee. My name is Cindy Janssen, C-i-n-d-y J-a-n-s-s-e-n, I'm an audit manager with the Auditor of Public Accounts, and here representing that office. I am not related to Auditor Janssen. We are here today in a neutral capacity on both LB489 and LB597 and just would like to entertain any questions that you have regarding the letter we sent in December regarding the review of the TIF projects that we completed. [LB489]

SENATOR HANSEN: Okay, thank you. Are there questions for Ms. Janssen? Senator Crawford. [LB489]

SENATOR CRAWFORD: Thank you, Senator Hansen. And thank you for being here. So in terms of the letter that you sent, the letter was identifying what you found from the result of the audit. And in that audit, I think overall what I understood from the letter is that you weren't finding projects that were violating the law, but you are identifying some areas where you thought there might be added clarification. Is that fair? [LB489]

CINDY JANSSEN: Well, there are some findings and recommendations in there as to where there was not adequate documentation of the law being followed, specifically with the blighted and substandard sections and whether they could support that with redevelopment plans, with the redevelopment contracts, with the hearing provisions and statutes. And so we did have some findings related to the documentation available to support whether those requirements were met. [LB489]

SENATOR CRAWFORD: Okay, I appreciate that. I remember that now that you mention it, in terms of people keeping their records. [LB489]

CINDY JANSSEN: Right. [LB489]

SENATOR CRAWFORD: And they had to show their records when you showed up. So it was a key issue. Thank you. [LB489]

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CINDY JANSSEN: Right. [LB489]

SENATOR HANSEN: Thank you. Any other questions for Ms. Janssen? Seeing none, thank you. [LB489]

CINDY JANSSEN: Thank you. [LB489]

SENATOR HANSEN: (Exhibits _____) All right. Anyone else wishing to testify in a neutral capacity? Seeing none, we'll invite Senator Groene back up to close. And while he's coming up, I will read into the record we have a letter of support from Gene Schultz, a letter of support from Denise Richards, one of support from Brenda Ray, another of support from Mary Spurgeon. We have a letter of opposition from Omaha by Design, a letter of opposition from the city of South Sioux City, a letter of opposition from the Home Builders of Lincoln/Metro Omaha Builders Association Coalition, a letter of opposition from the United Cities of Sarpy County, a letter of opposition from the Nebraska Economic Developers Association. And a neutral letter from Nathan Leach. And a letter in opposition from the city of Bellevue. Senator Groene. [LB489]

SENATOR GROENE: Thank you, Vice Chair Hansen. I never heard anybody complain about a free lunch late ever, so I'm sure I would be opposed if they quit giving me one too. But TIF is good if used correctly for urban renewal. It's supposed to be used for a limited area, blighted and substandard. I will read you the first part of the Article VIII(12), "for the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property in a redevelopment project as determined by law, any city or village of the state may, notwithstanding any other provision in the Constitution, and without regard to charter limitations and restrictions, incur indebtedness..." and then it goes on that they can confiscate all the property taxes. Senator Landis, which he was, is very good with words. He came up here and used the word public benefit. It's not in the law, it's not in the constitution. That term is not anywhere. Three or four testifiers after that, at least my staff could not find it, and I've never seen it. I haven't even found the word public enhancement in the statutes, maybe you can, but I haven't found it. Public benefit, taxes are public benefit. Property taxes collected are for a public benefit, to pay them is a public benefit. That's how you get your police, your fire, your streets, your roads. The League of Municipalities said they don't go 15 years. I'll tell you why they don't go 15 years, you bring in an employer with 300 or 400 employees, they go to the schools, they have them on public safety, you have to put more streets in, buy more fire engines. So what does the city do? They raise the levy. The levy brings in more taxes quicker to pay off the bonds because not everybody is paying their fair share. This is about property taxes. LB489 strikes one sentence. Either you could strike everything above it, because that last sentence in 18-2103 covers everything. So why was the rest of that put in there if we need that last sentence? We're just trying to make sure if we're going to give one taxing entity the power to confiscate every other taxing entity's tax dollars that they use

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it correctly as tax dollars for public benefit. I kept hearing instances of good TIFs downtown Grand Island, tear down an old building. You can do that with TIF, the city can pay for and put up a new building in an old area. You can do that, nobody's saying you can't. Senator...Mr. Landis, I'll show him respect, call him Senator Landis, yes, it's in the constitution farm land is valued differently. It is. TIF is also in the constitution as an exception to the everything valued the same, which our constitution says. And I will bring it up in the next bill about the farm land, but...also, I have LB599 in Revenue. Everybody would be treated same, where all development land improvements and structure would be considered business inventory like a car on a car lot is. We would get the crony capitalism out of it, developers could build their lots and not pay property taxes on it until it was retail. That could happen in present statutes. I'd love to see that for 5 years or 10 years, a new development everybody--everybody from mom and pop to the big corporation. The first year they pay 10 percent of their taxes, next year 20 percent, next year 30 percent, next year 40 percent, until they hit the max; as they ease into it as revenues come in to pay the property taxes. That would be fair, we should look at that. But abusing present law and the rule of law is not an answer. Is not an answer. I kept hearing about enhancements and public benefits and economic development and more jobs, this is not a jobs bill. TIF isn't, has nothing to do. In fact, if you read the present law, they're supposed to do a study and if the project affects public safety, schools detrimentally, they're supposed to turn it down because those entities should be able to collect your property taxes. They're supposed to turn it down. As far as schools, I forgot to call the State School Board Association, they testified four of my bills last year. They might show up yet today because...I appreciate Senator Landis, Senator Hansen mentioning that because I gave them a quick call. But the thing with schools is property tax is the first in. We shrink the pie of what we have for state aid to education because \$30-some million of it is now used instead of spreading it across the state to offset property taxes that are not collected with TIF. So LPS, OPS, they're not harmed, they collect less taxes in the formula, more state aid is giving to those schools. But they're starting to wise up, schools across the state, that the pie is only so big, of state aid to education. They're starting to wise up. If \$30 million or so is being used to offset property taxes, that's \$30 million that we allocated to them that could not be spread across to every school that has increased aid because we only have so many dollars. Thirty-some million (dollars) of it is being used now to offset TIF. Am I for TIF? Yes, it's a good plan. I probably voted for it as a freshman in college in 1978. I don't think I ever missed an election, because we were...the cities were burning, the inner cores were rotting. TIF is for that, it is for that. It is not for economic development. The end does not justify the means in any law. So anyway, thank you. [LB489]

SENATOR HANSEN: Thank you, Senator Groene. Are there questions for the senator? [LB489]

SENATOR RIEPE: I have a question. [LB489]

SENATOR HANSEN: Senator Riepe. [LB489]

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SENATOR RIEPE: Thank you, Senator Hansen. Thank you, Senator Groene. I have a question on LB779, which was the ConAgra bill a number of years ago. There was a job relationship in there for economic development. Is that still a viable option for incentives for businesses? [LB489]

SENATOR GROENE: Wasn't that a one-time-only type of law, that they fenced it in basically for ConAgra? I don't remember, but I think it was. [LB489]

SENATOR RIEPE: Okay. [LB489]

SENATOR GROENE: It was written for ConAgra, I think. Don't quote me. [LB489]

SENATOR RIEPE: So when you said, you know, this is not a jobs bill (inaudible) to me. But I think the ConAgra bill was for jobs. [LB489]

SENATOR GROENE: So is the Advantage Act. We have the Advantage Act, you know, and it's pretty broad, and it takes a lot of tax dollars. There are other federal housing legislation and then there's LB840, they do have LB840, communities do, where they can divert sales taxes or use other funds to...for economic development. They just don't need to because they have TIF. [LB489]

SENATOR HANSEN: Okay, thank you. Any other questions? All right, seeing none, that will close our hearing on LB489. And since we've been going quite a while, I'm going to call for a five-minute break. [LB489]

SENATOR GROENE: Thank you, I need water. [LB489]

SENATOR HANSEN: A call for a five-minute break and we'll try and all be back here and start right at 5 o'clock. [LB597]

BREAK

SENATOR WAYNE: All right, we're going to go ahead and ask everybody to take their seats as we move forward on Senator Groene day in Urban Affairs. Thank you for having us, Senator Groene. [LB597]

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SENATOR GROENE: I was going to have one hearing in Education, it was going to be yours, but you were booked already, Senator Wayne. [LB597]

SENATOR WAYNE: All right we will...reopen the hearing already? All right, we will be opening the hearing on LB597. Senator Groene, you may do your introduction, please. [LB597]

SENATOR GROENE: (Exhibits 12, 13, 14, 15) LB597, if I can get to it, is an attempt to put oversight, state oversight, over the tax increment financing that's used by community municipalities. It is the only property tax, call it aversion or exception, in the state constitution that does not have oversight. Senator Landis brought up ag land. In state statutes, county assessors have oversight by the Revenue Department, the property tax assessment division, the TERC board. So politically a county assessor, no different than a city council person or a mayor, used their position and their ability to put valuations on farm land. For political reasons or crony capitalism they would get caught when the Revenue Department, the property tax assessment division, looked at the valuations. That is not true with TIF, the authority stops at the city council. That is more powerful, TIF gives more power to a local entity that they can confiscate the property tax revenues of other taxing entities with no oversight for political reasons. Put it on your resume that you brought a business to town, so you can get a better job somewhere else, for a mayor to get reelected because certain businesses want TIF. There's no oversight, absolutely no oversight. LB597 would assign to...if I can find it, I'll start here. Governing bodies using TIF already have the obligation under community redevelopment law to report annually to the property tax administrator in the Department of Revenue of their TIF projects. That page one of the handouts is a report as a result of that, \$66 million statewide. You can go and look at that on the Revenue web site on the reports on TIF and you can find out what every community did TIF projects. How much they've given away so far, how much the base is, how much the tax increment is. It's a good report. So my point is the Department of Revenue already has a hand on TIF, they understand it. If you look at the report, the (inaudible) of it, they explain what TIF is. So they already know, they already have investigators. Try not paying your cigarette tax or your sales tax and find out how many investigators the Department of Revenue has, they already have people in place. Citizens of Nebraska deserve to have some oversight. You've heard testimony from individuals who were confused about how TIF is being used in their community: Fremont, Columbus, Omaha. They have nowhere to go, they have absolutely nowhere to go at the state level to check if their community is using TIF correctly. In fact, an honest economic development, which have many director has nowhere to go to find out if a project is fit to be TIFed. They have nowhere. They've got lawyers, lawyers that go around the state and sell TIF to those communities. TIF should be so simple that it's a form that you fill out at the county...at the city office, that you're applying for. You don't need to be paying lawyers huge fees, which we do out west, because the confusion on it. There should be some state oversight, a state office where citizens, government employees can go to check if TIF is being used correctly in their community. We do it on everything else, we do it on every other entity at the state level that I can

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think of. If you don't think your bank is doing the right thing, you can go to the banking department; if you don't think your insurance company is doing the right thing, you can go to the Department of Insurance here. If you don't think your city is using TIF correctly, you've got nowhere to go. Oh, you can hire a lawyer, civil court. In the state of Nebraska, we don't pay the legal fees if you win. That's where we're at. We need oversight. It's expanding rapidly, you heard today all of the, the end justifies the means. It's almost rabid, we got to bring business to town, we got to bring economic development. And it's okay if I use TIF, because the end justifies the means. There's no oversight. Almost angry, you're going to take my economic development away from me. We're not taking anything away from you, we just want you to obey existing law and the true purpose of TIF. That's all I'm asking: keep what needs to be on the tax rolls on the tax rolls. If we need new economic development laws to help with growth, then let's make one. But let's not abuse what we have. So anyway, all it does it gives...it lays out a procedure where TIF would have oversight...I mean, the Department of Revenue would have oversight over TIF. Who's against that? Who would be against that? Why would you be against it? If you're doing it correctly, why would you sit here and testify and say this is bad, I don't want help from the state, I don't want to make sure I'm doing it correctly? I just want to go out there and do what I want to do. There's absolutely no reason we don't have oversight over TIF. There's an awful lot of money involved here, and they are our tax dollars. They are our tax dollars. Thank you, Senator Wayne, Chairman Wayne. I forgot to call you Chairman Wayne. [LB597]

SENATOR WAYNE: That's all right, I come to your committee here pretty soon. Any questions from the committee? Senator Riepe. [LB597]

SENATOR RIEPE: Thank you, Chairman Wayne. Senator Groene, question I have is, is what is the pushback on the 45 days? Is that a perception that these things happen (inaudible)...? [LB597]

SENATOR GROENE: I haven't heard anything. They just don't want anybody looking over their shoulder, period. That's what I'm hearing. [LB597]

SENATOR RIEPE: (Inaudible). Okay, that was my question. Thank you. [LB597]

SENATOR GROENE: Thank you. Senator Crawford. [LB597]

SENATOR WAYNE: Any other questions...Senator Crawford. [LB597]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you, Senator Groene. Do you know of any other states that have a preapproval process for TIF? [LB597]

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SENATOR GROENE: I did not look into it. That's one thing with oversight. If you want it, we will do that. [LB597]

SENATOR CRAWFORD: Well, we just, we looked into it as far as...we didn't see any other states that had this step in the oversight, the preapproval part of oversight. [LB597]

SENATOR GROENE: But they had oversight. [LB597]

SENATOR CRAWFORD: But we do have the...that had a preapproval step like this. So in terms of seeing other states to see if it is used in other states or what happens in other states, I think just for the record that's important for us to think about in terms of what impact it might have. So the second thing is we do have...the Auditor's Office has an oversight role and we helped clarify that last time. Just in terms of for the record there is, yeah, there is oversight. [LB597]

SENATOR GROENE: Yes. And you and I worked on that together with Senator Murante and we got that done. And the result of that is the audit that you see from the...and appreciate, that was a good team. We worked together and got it done, and that brings this. And by the way, the Auditor's report did mention also make a recommendation of which I forgot to mention that "TIF is authorized by the state but administrated entirely at the local level by the governing bodies and redevelopment authorities of the cities and villages. The resulting absence of any statewide oversight permits the community development law to be construed and implemented locally in a far more liberal fashion, perhaps, than current legislative preference might condone. Likewise, the absence of any effective control at the state level permits the provisions of the community development law to be infringed, intentionally or otherwise, without meaningful redress, resulting in the various concerns discussed in this letter." They recommend oversight. [LB597]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you. Will you still be here for closing or will you waive closing? [LB597]

SENATOR GROENE: I'm just here for the duration. [LB597]

SENATOR WAYNE: That wasn't a hint by any means. [LB597]

SENATOR GROENE: I will be brief in closing, unless somebody says something I disagree with. [LB597]

SENATOR WAYNE: Which is bound to happen. Moving on to proponents. Any proponents?
Welcome to your Urban Affairs. [LB597]

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JOHN CURRY: John Curry, Columbus, Nebraska. Where I left off earlier was in regard to the issue in Grand Island, I think that was a city administrator, perhaps a chamber manager, that was explaining and justifying the use of the TIF money that was handed out there last summer. He mentioned one project on the south side of town where the city authorized something in the order of 20-something...I don't remember the number, a building of 270-some apartments, three-story apartment complexes, 80 units in a building, roughly, three buildings over three years. In addition, on the other end of town, west...east end of town, there was an 88-unit complex approved. Now, why is that a problem? Well, the reason it's a problem is it steals probably four or five years of taxpaying development from the city schools and the cities and all the other public entities that use those funds. Grand Island, for probably close to 10 years prior, had been building, adding to its inventory some 50 to 60 apartments a year. Now when those new product, new apartments were approved, the 350-ish last summer, that put the kibosh on the 80- or 50- or 60-unit developments that had been going on. Grand Island is not Los Angeles, people can drive from one end of town to the other to get an apartment. And so I think that's just absolutely got to be just a perfect example of what can go wrong with this law. There was just no logical justification for that. It wasn't thought out, they had a housing study that was not scientific, not statistically based, had errors in it. And it was just...it was all laid out to happen and it did. And I spoke with the city councilman there, and he said there's just no stopping it. And he was opposed to it for a vote or two. And so that's kind of what got my fire. In Columbus, we just closed a TIF project that started in 2001. The city ended up subsidizing a developer to the tune of \$4.5 million, at the end of the 15-year period they spent 5 minutes going over the project and just explained that the enabling debt had been paid off. Now, that was completely inadequate. They just...they didn't tell taxpayers what really happened and they glossed over all kinds of negatives. In the interim, there was another...don't hold me to this, \$3...no, \$2 million at least of tax increment financing that was needed to fix up the buildings where businesses moved out of. Now, that's not the purpose of tax increment financing. It's supposed to repair blight, not create it, and that's exactly what that project in Columbus did. I read the analysis of the application by a Professor Stone from Iowa State, and he made it very clear within his 30-page analysis about leakage and how to justify the project is he said, make sure that retail businesses in Columbus are not going to just relocate, because if that happens, the economics are all thrown off. Well, that's exactly what happened. Menards moved from an existing 95,000 square foot building...65, to a much larger new facility, and it received TIF in addition. Separate issue. And JC Penny was taken from downtown, where all the retail business down there needed it, and it blighted downtown. These are examples...also the APA report, Auditor's report, I believe said there's some 760 active TIF projects in the state. They requested feedback from 35 and I think only 22 responded. And of those 22, I think 4 had problems. Now, that's an indication there's a lot more going on here than people are aware of. And so definitely the Department of Revenue or someone needs to be overseeing this project, overseeing these projects. It's crony capitalism, I can tell you, I know, I see it in Columbus. I know exactly how it works. Bankers are all in favor of these things, they get to deposit the money and manage it, be on the committees. And their

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friends in the manufacturing plants love it. They want, you know, they want to do anything they can to attract new labor to town, so they're in favor of building shopping malls and adding apartments and in my mind... [LB597]

SENATOR WAYNE: Please wrap up here. [LB597]

JOHN CURRY: That's really a good stopping point. [LB597]

SENATOR WAYNE: Questions? Senator Riepe. [LB597]

SENATOR RIEPE: Senator Wayne, thank you. You said one thing that concerned me because it is my understanding that the Department of Revenue would be the organization that would approve it, but then you said someone needs to provide the oversight. So it sounds to me like it's a whole new agency for oversight of all the TIF programs in the state of Nebraska from beginning to end. That's significantly different than initial approval and then walking away. [LB597]

JOHN CURRY: You're right. [LB597]

SENATOR RIEPE: Do you know which it is? [LB597]

JOHN CURRY: Oh, I believe Senator Groene's bill is asking for approval up front, an application process. [LB597]

SENATOR RIEPE: And that's it? [LB597]

JOHN CURRY: Yeah, that's how I understand it. [LB597]

SENATOR RIEPE: Okay. [LB597]

JOHN CURRY: In my mind, I would go much further than that. I would ask for an audit or financial analysis at the end of the projects. [LB597]

SENATOR RIEPE: Okay, thank you. [LB597]

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SENATOR WAYNE: Any other questions? Thank you. Welcome to your Urban Affairs Committee. [LB597]

MARY JANE TRUEMPER: Hi, I'm Mary Jane Truemper up here again, T-r-u-e-m-p-e-r, resident of Douglas County, Nebraska. As this last gentleman said, I go with him, I would like to see more oversight than what Senator Groene has proposed. But I'll speak to this here shortly. I think the fact that we had a couple, two or three, attorneys early in this process that were talking about how complicated the TIF funding is and how you need an attorney to figure it out, I think that alone is enough reason to say we need oversight. If it's that complicated and complex, we need somebody looking at what's being done. When I heard 20 percent increases in property valuations surrounding Midtown Crossing, I start thinking about gentrification and the poor people in those homes. Because if you know the neighborhood around Midtown Crossing, there's a lot of poor people that live there, and how do they survive a 20 percent increase in valuation. We have a lot of people in Nebraska that are marginalized and these little evaluation increases affect them. I'm lucky not to be quite so affected, but it's still a concern to me. And then when I hear the city of Lincoln person talk about we had 14 projects that we didn't approve, first thing that goes through my is who did they tick off on the city. Is there oversight over who gets approved, who doesn't, and why? I mean, it makes me think about that. So I think any kind of oversight that we can have is good. Nobody will accuse me of being for bigger government, that is not my m.o., but at the same time, any money that is spent toward oversight I think is money well-spent, as we've seen over and over and over again in the state of Nebraska. And I would just ask that this committee have some mercy on the taxpayers of this state. It is just ridiculous. As much as I love this state, I don't know that it's even fiscally responsible for my family to stay here. And there's nobody that loves Nebraska more than I do. I choose to be here, I wasn't born here, I choose to be here. So I just say have mercy, and that's the end of my testimony. [LB597]

SENATOR WAYNE: Thank you. Any questions from the committee? [LB597]

MARY JANE TRUEMPER: Thank you. [LB597]

SENATOR WAYNE: Seeing none, thank you. Thank you for coming down. Any other proponents? Any other proponents? Seeing none, moving to opponents. Welcome. [LB597]

CHRIS BEUTLER: (Exhibit 16) Mr. Chairman, how are you? Members of the committee, it's been a long day for you, I know. And there's so much to talk about that it's very hard to come to the end of your day and figure out what not to repeat and maybe what you would like to hear. But let me just kind of wade in and I'll be guided by your questions and your reactions. Let me say, just to open, that with respect to TIF in the city of Lincoln, that single incentive program has transformed this city. We use it a lot, we use it for the right reasons, we use it legally, and we use

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it to improve the city in a whole number of ways. I don't want to get into the things that we've done in Lincoln, the testimony does have a description of some of the most important things in it. But I do want to let you know how important it has been to the city of Lincoln. The bill itself, as you know, creates a mechanism by which the county assessor and the state tax commissioner become more and more involved in approving TIF projects that at the current point in time are approved at the local level. This new time-consuming process is concerning to both the municipalities themselves, who are forming partnerships with private entities, and of course with the private entities themselves because of the delays involved in complicating the process in two more additional ways. Requiring a new state approval process, along with applications submitted to county assessors will almost certainly slow down projects significantly. Time equals money to all of us and many projects are on tight schedules for a variety of reasons--trying to get buildings open by the beginning of the school year, trying to take advantage of favorable interest rates at a moment in time, construction cycles within their own companies, and with respect to the relationship to financiers, tax credit deadlines, all these things are involved. And more time also equals more uncertainty for the private sector. Here in Lincoln we do everything we can to facilitate the process without sacrificing public input and public participation. We follow all of the laws and we're quite circumspect with regard to being conscious of procedures. Having said that, let me just note--I remember back to a book I read some time ago, it was called The Death of Common Sense. And the book was about the fact that you can so destroy the value of something by creating excess processes that you can turn a good thing into a bad thing and a useless thing. Not by attacking it directly, but by so loading it with process that there does result a kind of death of common sense. Now, the Senator may complain about oversight, but I tell you at the local level this goes through our planning commission, this goes through our city council, this goes through our mayor's office, it does go through the assessor's office for many purposes. Today, private citizens can file lawsuits. Private citizens are at a whole number of public meetings related to the declaration of blighted, relating to the redevelopment plan. Other political subdivisions are free to make complaints publicly or privately, and the State Auditor's Office, on at least two occasions, has done serious examinations of Lincoln's use of TIF. So there is oversight, there's a lot going on with regard to process and transparency and protecting the public interest. And so I would ask you to think thoughtfully about whether that kind of thing is really necessary or can you remedy what few problems there may be locally from place to place in Nebraska by a more exact and measured instrument than just the blunt application of additional layers of process. The other thing that I wanted to comment a little bit on was just the "but for" test. You know, the "but for" test you could look at in the narrow confines of a particular project... [LB597]

SENATOR WAYNE: Can you wrap it up just a little bit, thank you. I'm sure there will be a question for you to answer. [LB597]

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CHRIS BEUTLER: Thank you. If I could just make one little comment. But if you look at things historically therein, I think lies the answer to the "but for" test. Cities in America in the 1960s were hollowing out and in the 1970s nothing was being rebuilt in the major civic centers of huge American cities because people would not make an investment in the community under the circumstances of having to destroy buildings, redo infrastructure, and do everything that's necessary to rebuild the community. And the answer to the "but for" test is very much visible in the historic context of how TIF came about in the first place. And there's much more good information in that regard that sometime I'd be delighted to discuss with you, Mr. Chairman. [LB597]

SENATOR WAYNE: Thank you for your testimony. Any questions from the committee? Senator Crawford. [LB597]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for being here, Mayor Beutler, to discuss the process. So we've talked quite a bit about some discussion about local control or citizens indicating what they would want the use to be for, but this bill I think is about statutory compliance probably more than preference. All right? And so I wondered if you would tell us about what the process is in the city of Lincoln in terms of ensuring statutory compliance, constitutional compliance. Who does that or what does that process look like? [LB597]

CHRIS BUETLER: Well, obviously in the city of Lincoln we have a sophisticated legal department. And for somebody like me, who's mayor of the city, and especially for me, I suppose, because I have a legal background, everything starts there. We get good advice from our legal department about what is possible under TIF and we follow that advice. Obviously, not all of the small towns in Nebraska may have access to that kind of immediate help from their immediate government and I can see where the Legislature might want to make available to them some increase to create a sophistication, perhaps from the League of Municipalities or from some other source, some additional expertise. I think you would agree with me, having watched all the people who came up here and have been testifying today that these are people of good will. I resent the crony capitalism kind of characterization of what goes on in Nebraska. People in Nebraska look to their communities and to building their communities in an evenhanded way, more than people anywhere I think. And it may be that some of them need more legal help or other kinds of assistance, but I don't think the way to correct that is by simply creating processes that are not needed in many, many communities, especially the bigger ones, by virtue of having established legal departments; and building into our structure things that are unnecessary and time-consuming. The TIF process is already a four to six month process under the best of conditions and this will lengthen it by several more weeks. [LB597]

SENATOR CRAWFORD: Thank you. [LB597]

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SENATOR WAYNE: Any other...all right. [LB597]

SENATOR CRAWFORD: So just so we get a sense of what that load might look like if the Department of Revenue was reviewing these applications, could you give us a sense of how many of these TIF projects or proposals might be going through the city at one time or what extent to which this is the load of your legal department I guess? [LB597]

CHRIS BUETLER: Yeah, that's a good question. And let me send you some materials... [LB597]

SENATOR CRAWFORD: Sure. Okay. [LB597]

CHRIS BEUTLER: ...that would give you a more thoughtful answer to that. I mean, we're dealing with a dozen TIF projects at any particular point in time. Some of them will happen, some of them will not. There are a lot of them that we get a little ways into and it's not what we want. So that's a hard question to answer. [LB597]

SENATOR CRAWFORD: Thank you. [LB597]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming today. [LB597]

CHRIST BEUTLER: Thank you. [LB597]

SENATOR WAYNE: Next opponent. [LB597]

DOUGLAS KINDIG: (Exhibit 17) Good afternoon, Senator Wayne and members of the Urban Affairs Committee. I'm Douglas Kindig, K-i-n-d-i-g, mayor of the city of La Vista. I appear before you today on behalf of the United Cities of Sarpy County, which includes Gretna, Springfield, Papillion, and La Vista. The United Cities are in opposition of LB597, which would provide for an application process through the county assessor and tax commissioner prior to using tax increment financing. This legislation would give the county assessor and the tax commissioner the ability to deny a request if they decide that it is not in accordance with the approved redevelopment plan, or in the case of the tax commissioner, if it is judged not to be an eligible parcel or satisfied all provisions of the constitution of community development law. This additional layer of approvals by another branch of government assumes, and has been stated today, that local governing bodies need oversight and may not have acted in accordance with the law. It also puts approvals in the hands of elected and politically appointed officials...individuals who may have limited experience with tax increment financing or no first-hand knowledge or

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understanding of the municipality or its needs. State oversight of decisions made by local communities and their decisions regarding local taxes related to redevelopment projects is an overreach and, I feel, unnecessary. State statutes and case law currently provide a substantial amount of guidance to the fiscal agents and bond counsels who work on our behalf and are experts in tax increment financing. While we understand the various issues associated with the use of the community development law, it is our firm belief that no one knows better than the local elected officials what is necessary, proper, and feasible for their community. I thank you for your time and consideration this afternoon. I have a council meeting tonight where I hope I have a whole room full of citizens who are definitely my oversight. I'll take any questions. [LB597]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. [LB597]

DOUGLAS KINDIG: Thank you. [LB597]

SENATOR WAYNE: Good luck with your council meeting. Welcome. [LB597]

CASSIE PABEN: Welcome. Good evening, Chairman Wayne and members of the Urban Affairs Committee. My name is Cassie, C-a-s-s-i-e, Paben, P-a-b-e-n, and I'm the deputy chief of staff for economic development for the city of Omaha. I'd like to thank you for the opportunity today to discuss LB597 and at this time, as well as the other two bills that you've heard before, and the detrimental impacts that this legislation would have for the city of Omaha, as well as other communities across the state of Nebraska. TIF is an important tool utilized by the city of Omaha to aid in the redevelopment of our community. It's not only the most effective redevelopment tool, but it is also the city of Omaha's only true redevelopment tool. I don't think I can underscore how important this tool is to our community and the aid it's given us in developing projects such as Aksarben Village, Midtown Crossing, the First National Bank tower, the Livestock Exchange Building, and Stockyards business park, as well as the Fair Deal Village MarketPlace. If we wouldn't have had TIF, none of these projects and the others would not have happened. Real estate development projects, and in particular, TIF projects, come with an enhanced amount of risk. It behooves developers and cities to identify potential areas of risk and minimize it as much as possible. Because there's risk, timing for projects becomes even more critical. If LB597 were approved, it would drastically increase the risks to doing development in areas of our community and communities across the state which need it the most. Currently in Omaha, it takes a minimum of 120 days to get through a TIF application process, and that's if everything is included in the application up-front, there's no questions, there's no issues when we go to the several public hearings that are held on all of our TIF applications. With this bill, you would add several more days, if not months, to this process and that has a ripple effect. The longer the process takes, the longer in delaying construction of a project, which in Nebraska could mean

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missing an entire construction season. Or even worse, you have a situation where you've handcuffed development because of uncertainty and approval on entitlement process. The utilization of TIF is not only an investment in a project currently happening, but an investment in our future. Without this tool, we would not see the projects that revitalize our community happen, nor would we see the positive ripple effect that they have. For time's sake, I won't go into the details that Senator Landis previously mentioned regarding Midtown Crossing, I believe he also provided a handout about the increase in valuation not only for that parcel, but for the area around it. And that is something that we see continually, it is also something that we have taken a look at and will continue to take a deeper dive into the true impacts that TIF has on our community. That said, we're poised for extraordinary growth in Omaha, as well as the rest of the state is. We must not make it more difficult or risky for developers to obtain the financing necessary to do business and help Omaha and the rest of the state grow. That said, I'd be happy to answer any questions you might have. [LB597]

SENATOR WAYNE: Any questions from the committee? I'm sorry, Senator Crawford. [LB597]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for being here. I wondered if you would answer the question about how the city of Omaha addresses statutory compliance and any sense of how many projects or what...how many people that takes in terms of checking for compliance on projects. [LB597]

CASSIE PABEN: Sure. So in terms of the statutory compliance, we, just as the city of Lincoln does, we have a very robust legal department that looks over that. In addition, part of our TIF committee, which is the initial step for that project to kind of move forward in our process does include the city attorney, as well as myself, and other members of city departments. Our legal staff are the ones that really do check for that statutory compliance. We're reviewing that. I can tell you from firsthand experience as we're going through projects if there's something that maybe even looks questionable it's as simple as asking our legal staff those questions. I believe Ms. Taylor, who spoke before, handles primarily most of those responsibilities within our legal staff. I know she does a lot of other things, other duties as assigned as it relates to real estate, but her background is real estate law, I mean, that's what she does. So she helps us check those statutory compliance, as well as our city attorney. And there's other attorneys on staff that do that as well. In terms of the number of projects you would see, I would tell you 2016 was probably a little extraordinary for us. We actually had 30 total that were approved. Some of those actually started the process in 2015, and by the time you get through the process and get to approval it would have carried over into 2016. On average, I would tell you we have, you know, 20 to 25, depending upon a variety of factors, including what the current market conditions are. If the economy is down, you're going to see a decreased number of TIFs that are coming through the door because financially deals are tighter, financing might not be available, conventional financing might be more difficult to get. So we have that caseload there that somewhere, if this

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were to move forward, you'd have at least that much coming from the city of Omaha itself, on top of all the other municipalities that might be doing a project at that time. [LB597]

SENATOR CRAWFORD: So what is the responsibility or liability of bond counsel in advising the city on statutory compliance? [LB597]

CASSIE PABEN: There is a couple of different things here. So we in the city of Omaha we actually...the city does not assume the risk for the TIF note. That risk gets assumed by the developer doing the project itself, so they have to find a lending institution to actually give them that note. In terms of statutory compliance for that, if the city were to actually go out and do the bonding for it, I mean, we would want to check with our bond counsel to make sure that legally we're doing those provisions. However, I would tell you, even with the developers going out and having to secure that financing, we're assisting them with that. A lot of our local financial institutions we work extensively with to make sure that they understand where we're at, what that looks like. As was previously mentioned, we do have a 19-page guidelines that pretty much lays out what you can and cannot do with that. I know we field a lot of questions from time to time, depending on the projects and the complexity of the projects of what might be eligible or what might not be eligible. [LB597]

SENATOR CRAWFORD: Great, thank you. [LB597]

SENATOR WAYNE: Any other questions? Seeing none, thank you. [LB597]

CASSIE PABEN: Thank you. [LB597]

TOM HUSTON: Chairman Wayne, members of the committee, my name is Tom Huston. I'm an attorney here in Lincoln with Cline Williams law firm. I appear before you today on behalf of the Lincoln Chamber of Commerce and also the different communities that we represent around the state. I do a lot of redevelopment work, primarily in the Lincoln area, representing developers; but we also represent about 25 different villages, first-class cities, and second-class cities around the state in this community development law and its implementation on the local level. Just a couple things I wanted to talk about is just the...I don't have any problem with anybody looking at the compliance of the cities that I work with, I don't have any problem reviewing the compliance issues that we encounter on a daily basis and working through the community development law. My concern with LB597 is really the addition of time and the addition of uncertainty to the process. My experience, whenever you have a real estate development project, when you add time and you add uncertainty, it kills the project. In my representation of the different communities around the state, there are certain statutory steps that we have to comply with. The community development law requires really multiple steps starting with...assuming

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that you already have a blight study in place. In my experience, that usually takes four to six months, depending upon some of the other factors, including political factors. The first step in the process is really in dealing with the redevelopment plan. If the redevelopment plan does not have a specific project into it, I require that the plan be amended. That requires a hearing in front of the planning commission, with statutory notices, and a publication of notices. That amended redevelopment plan also has to be approved by the governing body before you can even really talk about the specific project that is moving forward. That redevelopment plan, when it's being considered by the governing body, also includes the cost-benefit analysis, which is really the opportunity for the community to fully vet the project to make sure that there is a conscious decision on whether or not the cost equals the benefit for the community. So the other thing that has to happen once you get through those statutory processes is then you have to negotiate a redevelopment agreement, and that is not always a simple process because there are certain obligations that have to be embodied in such a contract. The redeveloper has to commit to a certain level of valuation in order to support the tax increment financing, support the debt service on that tax increment financing note. So if that takes four to six months under that process, and again, I mentioned that assumes that the area is already included in a blighted area. If it isn't, I typically add, well, that it's probably another two or three-month process to have an area declared blighted and substandard. So my concern on this LB597 is the time and uncertainty. I think it would add potentially two to three months to the process. My reading of it, I don't see any limitation on how long a county assessor has to make a decision, that could last six months. One of the other problems I have is the appeal rights to TERC and the lack of definition of who has those appeal rights. That's another way to kill a project. And so I make the analogy to the land use world. I do a lot of land use work around the area and I actually teach land use law at the University of Nebraska. The state of Nebraska has delegated land use authority to different governments around the city, both first class cities, second class cities, and villages. There's a great deference given to local governments on how they make those decisions and I think a local control and a local deference should also be applicable to the community development law. And I'd be happy to answer any questions that you may have. [LB597]

SENATOR WAYNE: Any questions by the committee? I just have one, and I'm going to start off with a comment. It appears to be that the problem is an area becomes blighted, because you just said you have to add two or three months after a developer wants to announce the project or do the project. What's strange for me is that municipality already knows whether an area is blighted or not. Why don't...and I guess this is really an unfair question, why don't we just continue to update annually our blighted areas and then let the projects come to those areas, versus a project coming and saying, hey, we want to blight it now? [LB597]

TOM HUSTON: Very good question. I'd really appreciate the smaller communities that come to me in advance of a project knocking on their door, and they have the opportunity to take a time period to actually go through a blight analysis. You know, the caps on how much area can be

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declared blighted plays into this. I think there's a 100 percent cap on villages. I've always wondered why is that. I think it's designed to be more lenient on villages and their blight analysis and I think that's a fair assumption. Second class cities are subject to a 50 percent cap and the first class cities and larger cities are subject to a 35 percent cap. I think the blight analysis has to be done early on in the process. In the land use world, we tell communities that comprehensive plans should be updated every 5 to 10 years, I think blight studies ought to be updated on a periodic basis too. I don't know the period, maybe it's every 10 years, but so they're ready. Because areas do become unblighted, you can amend a redevelopment plan and take areas out of the blight analysis once it's been redeveloped. And I think that's an important exercise and I encourage my communities that I work with to do that. [LB597]

SENATOR WAYNE: Thank you. [LB597]

TOM HUSTON: Thank you. [LB597]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for your testimony. Any more opponents? [LB597]

KEN BUNGER: Good afternoon, Senator Wayne and members of the committee. My name is Ken Bunger, today I'm a registered lobbyist for the North Platte Area Chamber and Development Corporation. I am also a former deputy city attorney for the city of Omaha. In 1978, when Senator Groene evidently was a freshman voting for the law, the constitutional amendment, I actually drafted, at least I think most of it, if my memory serves right, with the Omaha Chamber of Commerce. And since then, also the 1984 and 1987 amendments. The reason for that amendment was because Nebraska, unlike other states, has a provision that you can't do economic development to help a private party--in other words, private/public partnerships--without amending the constitution, which we did. The first time and second time was to add tax increment financing. The voters did a very wise thing, they also placed the decision for the use of tax increment financing with the city or the village. Just as previously stated by many of the opponents, it's a matter of local concern, nobody better to decide than your local city councilman what's good or bad in a particular project. The constitution very clearly says that cities and villages are the ones to decide what the projects are. Besides the political necessity to that, I think if you get LB597...I'll skip around a little bit, the bill as drafted gives that legislative authority to a tax commissioner, an unelected tax commissioner. It's probably the way it's drafted is not constitutional, and it certainly violates the...any precept of local control, which I think is incredibly important in these types of cases. I will say that I've represented, after I left the city in 2002, I essentially bond counsel for a lot of projects in Chicago, Kansas City area, and across the state of Nebraska with some of the smaller communities. And I will say that one of the biggest control of these projects is the bank's attorney or the city's bond counsel, because they're the last

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person in the...the first person to be sued and the last person in the world to want to make a mistake. So I think the oversight, other than the city attorneys, of which I was one, but I think bond and bank counsel are very important. And you'll see that in every project at some stage. Any questions? [LB597]

SENATOR WAYNE: Thank you. Any questions? Senator Crawford. [LB597]

SENATOR CRAWFORD: Thank you, Chairman Wayne. Could you speak to that just a bit more in terms of who would sue bond counsel or how they would be held accountable for statutory compliance? Or the bank. [LB597]

KEN BUNGER: Well, the bank, well, in the bond counsel area, we did the ConAgra project for instance, in order to do that project it was a combination of tax increment financing; redevelopment bonds, which is the other piece of the community development law that's not TIF, but it's financed; and about four other financing sources. And in order to do that, the city had its bond counsel, you know, look over every detail of it and make sure everything was according to not only the community development law statute, which was the underpinning of everything, but also all the other matters that came together. In smaller projects, and this was a bit to Senator Wayne's point, bank counsel for the bank that's actually lending the money will review the documents and they will review them very closely because it's not only the TIF that's involved but...because that only makes up maybe 15 percent of a project, 10 percent, and you've got all the other financing that has to kind of fit together. So bank counsel will review that as well. And that's in addition to developer's counsel who will be looking at it, because they last thing they want to do is get their client into a situation where lawsuits starts applying; and then the city's own counsel. So you essentially have three sets of lawyers' eyes on this thing during any project. And I would just add very quickly, the reason that you can't have another bill, one for urban areas and one for outstate Nebraska, you've kind of got to all put it in the redevelopment bucket because of the constitution. You can perhaps have the Legislature design a different bill that might be better suited for western Nebraska, you might have it better suited for certain urban areas or areas within the city of Omaha for instance, I know it is a concern. But it's all got to be under the community development amendment to the constitution. And it's pretty broad, it allows the Legislature great leeway in designing that. So I hope that that answers your question. [LB597]

SENATOR WAYNE: Any other question from the committee? Seeing none, thank you for coming today. [LB597]

KEN BUNGER: Okay, thanks. [LB597]

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SENATOR WAYNE: How many other opponents do we have testifying? [LB597]

RANDY GATES: Well, good evening. I was hoping I'd be able to say good afternoon, but it's kind of running on. I'm Randy Gates, finance officer for the city of Norfolk, R-a-n-d-y G-a-t-e-s. I've got the same concerns several of the other testifiers talked about: the time that this adds to the process. We already got a process that's taking months, you're going to add another couple of months to that process. And my experience with developers is they are not the most patient people in the world, once they determine that they've got a viable project, for various reasons that I mentioned earlier they usually want to get moving forward on that as quickly as they can. Whether that's because they want to get dirt work done before it freezes in the fall or whatever, they're usually wanting to proceed quickly. And another thing, we also compete with other states and if this process takes months extra here in Nebraska compared to what it would in Iowa or South Dakota, that hurts our chances on these projects. And another concern I have is the uncertainty. We're adding two more governmental entities to look over our shoulder and look at these redevelopment plans, and I'd like to think that if it's gone through the city of Norfolk's process and we have multiple attorneys look at that too, we have Baird Holm as our TIF council, our city attorney gets involved if we got real questions, developers council is involved with it. I'm not an attorney, but I look these things over, and if I've got questions, I'm sure to get those answered. So a lot of people have looked at this and I'd like to think by the time we been through all of our processes is that community development plan goes to the county assessor, goes to the Department of Revenue and the Tax Commissioner looks at it to say yeah, you guys did the right thing, this is a good project, and approve it. That process may take a couple months, but we like to think, yeah, they would approve it. But your...from my past experience, I think that may not necessarily be the case. You've got other entities that may have a different view than what has been out there in common practice in the state, what we may think state law clearly says. And I want to use an example of city of Norfolk buying their administration building about five years ago. We did that through a lease-purchase agreement, we thought it was clearly common practice around the state to do those types of things, they weren't subject to property tax, we thought it clearly complied with state law. County Assessor thought he needed to take that to the state Property Tax Administrator at the Department of Revenue, to our surprise, our major surprise, they said it was taxable. We ended up arguing back and forth a lot. I don't know if you remember, but in 2012 there was LB902 to address that problem, not just for the city of Norfolk, but for entities all over the state, including the state of Nebraska. You guys were leasing under lease-purchase contracts multiple buildings. Madison County where the county assessor was, they were leasing their juvenile detention center. TD Ameritrade's park, they would have all been taxable all under lease purchases without LB902 because of what I think was clearly a misinterpretation of state law; was clearly going against common practice. So you may think you've got a good project, you may think there's no uncertainty involved with it, you take it to the county assessor and he may not think that or he may think, well, I need...well, under LB597 he's got to ask the Tax Commissioner. He may get back a totally different answer than what you

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were expecting. So it adds uncertainty for us, it adds uncertainty for the developer, and all of that is bad for these redevelopment projects. And I'd be happy to answer any questions, I see I've got the red light on. [LB597]

SENATOR WAYNE: Any questions from the committee? Senator Crawford. [LB597]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for your testimony. And I think it's interesting, we have one other testifier who talked about the role of the assessor, but I think your story talks about what that assessor role might look like. The assessor really gets to decide whether to send this to the Department of Revenue or not, is that your understanding of the... [LB597]

RANDY GATES: That's way I read the law. [LB597]

SENATOR CRAWFORD: Right, right. [LB597]

RANDY GATES: He takes the first glance at it and if he thinks it's okay, then it goes forward to the Department of Revenue and the Tax Commissioner takes a look at it. And like I say, I would think our projects wouldn't have any trouble, but that may not be the case from my past experience. [LB597]

SENATOR CRAWFORD: Do you think that gives the county a veto in effect? [LB597]

RANDY GATES: I didn't hear that. [LB597]

SENATOR CRAWFORD: Oh, do you think that gives the county, really the county assessor, kind of a veto on a project? Or a step (inaudible)? [LB597]

RANDY GATES: I'd have to go back and reread that law to see what appeals process we have if the county assessor says he doesn't...if I remember right in LB597, he's supposed to look at a few things and check those, basically go through a checklist and if it meets those things, then forward it to the Tax Commissioner. I would...but like I say, my experience with our county assessor is...anyway I think he would forward it to the Tax Commissioner, unless he had real problems with it, and let the Tax Commissioner decide. [LB597]

SENATOR CRAWFORD: But he might have a different interpretation of "pursuant to redevelopment plan" than the city had. [LB597]

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RANDY GATES: Yes, I think at each one of those levels... [LB597]

SENATOR CRAWFORD: I mean, that's the application issue, I think the uncertainty issue that you raise. [LB597]

RANDY GATES: I never thought the county assessor on our city admin building would think he needed to ask the Property Tax Administrator at the Department of Revenue. I was really surprised when he thought that, because they had their own buildings that were lease purchased and tax-exempt. So that was a shock to me, but I thought well, the Property Tax Administrator will obviously tell them it's tax-exempt. Wrong. And we argued for months, spent lots of time, got nowhere, had to come to this body to get it handled legislatively, which they did. [LB597]

SENATOR CRAWFORD: Thanks. Thank you. [LB597]

SENATOR WAYNE: Any more questions from the committee? Seeing none, thank you for coming today. [LB597]

RANDY GATES: Okay, thank you. [LB597]

SENATOR WAYNE: Any more opponents? Anybody testifying in neutral? [LB597]

GARY PERSON: (Exhibit 19) Good evening, Senator Wayne, committee members. My name is Gary Person, spelled like person, P-e-r-s-o-n, I'm the president and CEO of the North Platte Area Chamber and Development Corporation. I'm also representing the Nebraska Economic Developers Association, which is a 300-member organization of professionals and associations trying to do economic development all across the state of Nebraska. I just wanted to go on the record and provide some written testimony in opposition of LB597. And long story short, I know you've heard a lot of those points today, but we truly believe that a check and balance system and some of the lengthy public processes that already exist are sufficient. The additional timing, as somebody who's done economic development in the rural trenches for 30-plus years, and all of those being in western Nebraska, our competition for these projects wasn't in other communities in Nebraska. We were often fighting to land those projects in western Nebraska and competing with South Dakota, North Dakota, Wyoming, Colorado, and some of the advantages they had. What tax increment financing did for us was in some regards level the playing field. All about compliance and doing things right. I've never met an economic developer that ever wanted to try purposefully to do something wrong. But we all try our best and that's why we rely on the experts that assist communities with economic development, and we all take personal responsibility to try to make sure that that's done correctly. [LB597]

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SENATOR WAYNE: Thank you for your testimony. Any questions from the committee? Seeing none, thank you, sir. Welcome back. [LB597]

CHRISTY ABRAHAM: Thank you, Chairman Wayne and members of the Urban Affairs Committee. My name is Christy Abraham, Abraham is A-b-r-a-h-a-m, I'm here representing the League of Nebraska Municipalities. And I appreciate that I am probably the only thing standing between you and going home, so I will be as brief as possible. I just want to talk a little bit about that the League is being proactive on trying to educate the cities about TIF and the procedures for TIF. The Auditor's report raised a lot of concerns, or I guess I should say some concerns, about cities using TIF. And I think a lot of these cities may not have staff dedicated for that purpose and maybe are not as sophisticated as say your larger communities are. But we don't believe that adding additional hurdles for these communities is the answer for that and we would respectfully submit that the League thinks more training for the city officials, for...excuse me, for the developers, for the TIF attorneys could be a more effective solution. I will now put a plug in for the League's mid-winter conference next week. We're having two sessions on TIF, one is on the nuts and bolts of TIF for city officials, and your own Chairman Wayne and the Auditor's Office is doing another presentation on the Auditor's report and those findings. In addition, the League has been working on a model ordinance for cities, that's just sort of an additional layer for cities to use to ensure their compliance with state law. And the League stands ready to do even additional training and we're open to those suggestions. But I did want to let you know that we certainly believe more education is the answer, as opposed to more layers of bureaucracy. So I'm happy to answer any questions, thank you so much for staying the whole afternoon. [LB597]

SENATOR WAYNE: Any questions from the committee? I just want to make sure, it's the early spring conference, right? It's just we're getting out of the winter. [LB597]

CHRISTY ABRAHAM: Okay. I'm happy to rename it, but yes. Mid-winter is what we call it. Thank you. [LB597]

SENATOR WAYNE: Thank you for your testimony. Any other opponents? Seeing none, neutral testimony? [LB597]

CHRISTIAN KREZNAR: (Exhibit 21) Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. My name is Christian Kreznar, that's C-h-r-i-s-t-i-a-n, Kreznar, K-r-e-z-n-a-r, and I'm a fellow with OpenSky Policy Institute. I'm here to testify in a neutral capacity on LB597. We support measures to increase state oversight on tax increment financing projects, but we feel that there are better ways for the state to ensure that TIF projects provide taxpayers the best return on their investment. We believe that the state should play a role in TIF for several reasons. First, while TIF is often thought of as a purely local policy, it has a direct impact on the

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state's finances. In 2015, TIF reduced taxable property in Nebraska by \$3.1 billion and property tax revenues by \$66.3 million. In FY17, K-12 property tax revenues were reduced by about \$36 million due to TIF, about \$23.6 million of which was paid by the state in increased school aid to compensate for reduced local resources. Any appropriation that costs the state \$2.3...sorry, \$23.6 million in taxpayer money would see thorough review. We think TIF should be held to the same standard. For local subdivisions other than schools, such as counties, community colleges, and natural resource districts, property tax revenues are reduced with no offsetting compensation from the state. We estimate the losses for these subdivisions to total over \$30 million, including \$8.2 million for counties in 2015. As it currently stands, municipalities can authorize TIF projects unilaterally that affect the finances of these other subdivisions. To minimize the effect of these losses, affected units of government should have the choice to either opt-out of providing TIF benefits or be guaranteed a seat alongside municipalities on redevelopment authorities. It is also important to note that the State Auditor has standing concerns with TIF. This past December, the State Auditor released a report noting that TIF is subject to "remarkably little monitoring and oversight." The audit sampled 22 TIF sites and found that 14 did not maintain adequate documentation, and 6 did not meet the requirements to be considered blighted. With that report in mind, we believe that the state should have a more active role in the TIF process than is proposed by LB597, particularly through greater oversight by the Auditor's Office. A strength of LB597 is the review of the redevelopment plan and eligibility of the parcels in question for TIF. We believe that this should be taken a step further to test the eligibility of the "but for" clause that states that a development project would not occur "but for" TIF benefits. A study by the Minnesota Legislature found that cities interpret the 'but for' requirement in a variety of ways that do not include the basic viability of the project as intended. These include size, profitability, and even threats from developers to work elsewhere if they do not receive TIF benefits. Moreover, a study by the Lincoln Institute of Land Policy found that growth in TIF districts are often offset by declines elsewhere within a municipality. Essentially, by subsidizing the development of a store in one place, it eliminates demand for a store elsewhere. Given the recent State Auditor's report, it makes sense to examine the application of the "but for" requirement as well. In conclusion, none of this is to say that TIF isn't a valuable tool for cities in Nebraska. Instead, given the size of the state's investment in TIF, we think that it's reasonable for TIF to see similar review to any other significant source of state expenditure. Thank you for your time, and I would be happy to answer any questions you might have. [LB597]

SENATOR WAYNE: Any questions from the committee? Senator Riepe. [LB597]

SENATOR RIEPE: Thank you, Senator Wayne. It says you're a fellow with the OpenSky. Are you representing OpenSky. [LB597]

CHRISTIAN KREZNAR: I am, yes. [LB597]

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SENATOR RIEPE: I would say that your testimony sounds more negative, you're opposed more than you are neutral. [LB597]

CHRISTIAN KREZNAR: I think I would disagree with that. [LB597]

SENATOR RIEPE: I would expect you to. [LB597]

CHRISTIAN KREZNAR: I think we agree with the spirit of LB597, in terms of increasing state oversight. But we think it should be pursued in a slightly different way. [LB597]

SENATOR RIEPE: Okay. [LB597]

SENATOR WAYNE: Any other questions from the committee? Thank you for this testimony. [LB597]

CHRISTIAN KREZNAR: Thank you. [LB597]

SENATOR WAYNE: Have a good day. Any other neutral capacity? [LB597]

BETH BAZYN FERRELL: Good evening, Chairman Wayne, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l, I'm with the Nebraska Association of County Officials. I'm appearing neutral on the bill. Our membership didn't really have any concerns about adding additional oversight to TIF, our interest in the bill really was more of a technical nature. When we read the bill, the process of submitting the information to the assessor and then on to the Tax Commissioner seemed a lot like the homestead exemption process. And so with that in mind, we would suggest that if you move forward with the bill, perhaps noting that notice needs to go not only to the assessor, but to the redevelopment district or the governing body that's doing the development project, the TIF project, so that everyone sort of stays on the same page. As the bill is written right now, it just requires the notice to go to the assessor. And I don't think our membership would have any objection to some of the suggestions that were made also about adding some time frames and deadlines and so on for the assessor's review. That would be similar to the homestead exemption process also. I don't think we'd object to any other suggestions that were made about that technical aspects of implementation. I'd be happy to answer questions. [LB597]

SENATOR WAYNE: Any questions from the committee? Senator Crawford. [LB597]

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SENATOR CRAWFORD: Thank you, Chairman Wayne. Were there any concerns from NACO members about workload or being able to actually process these applications? [LB597]

BETH BAZYN FERRELL: Well, as we read it, we read it more like the homestead exemption process, which is essentially the assessor gets the applications, makes sure that...sort of there's a checklist: yes, they're signed; yes, they're, you know, dated, that sort of thing; and then submits them on. So it's not an actual technical review by the assessor, it's more of just a procedural pass-through. I think if there was more intent than that to have the assessor actually analyze and make sure everything, you know, met the requirements, our membership might have a different approach to it, a different opinion on it. [LB597]

SENATOR CRAWFORD: Was there a sense of it...if it is just a pass-through, is there a sense of a county benefit of that pass-through? Or why not just turn it in to the commissioner? Like, what is the value of the county role in being that person that checks the boxes? [LB597]

BETH BAZYN FERRELL: I don't think we would necessarily have any problem with not being that person. Like I said, we read it like a homestead exemption process, and so that was kind of the context we looked at it in. [LB597]

SENATOR CRAWFORD: Not that you would be assessing the pursuant to a redevelopment plan as deciding whether it was an appropriate. [LB597]

BETH BAZYN FERRELL: Right, right, it was just strictly the pass-through part of it. [LB597]

SENATOR CRAWFORD: Thank you, I appreciate that. [LB597]

SENATOR WAYNE: (Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11) Any other questions? Seeing none, thank you. Any other neutral testimony? I do want to read into the record...we're going to read into the record a letter of support, Gene Schultz; support, Denise Richards; support, Brenda Ray; support, Mary Spurgeon; opposition, Omaha by Design; opposition, the city of South Sioux City; opposition, Home Builders of Lincoln/Omaha Metro Builders Association Coalition; opposition, United Cities of Sarpy County; opposition, New Generation Properties, LLC; opposition, Nebraska Realtors Association; opposition, Nebraska Economic Developers Association; opposition, city of Bellevue; and then neutral, Nathan Leach. With that, Senator Groene, you have the floor for closing. [LB597]

SENATOR GROENE: Thank you, Senator Wayne. First, I would appreciate Mayor Beutler, former Senator Beutler, and Senator Landis. Times change and positions change, but Senator

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Beutler was a huge proponent in LB775, making sure that incentives had oversight. If you look at back when they were in Legislature, they sponsored bills like this type bills for oversight. And they really didn't like TIF. But times have changed and positions have changed. But I'm here today and I have a responsibility to make sure laws are...we create, and this body created cities, this body created county governments. This body is the oversight of all local governments. And as to Mr. Bunger, if he wrote this, he must have forgot a phrase he put in the constitution amendment, for the purpose of rehabilitation requiring a redevelopment, substandard and blighted property in a redevelopment project as determined by law. That's us, we determine, this body. Everything the city does with TIF, we decide. How it is managed, the oversight, the definitions of what is blighted, the definitions of what is substandard. "Determined by law", that's you and me. If we had oversight, and I appreciate the county assessor bringing up another one: homestead exemption. County assessor decides that, but we fund it, the state does, so there's oversight. It goes through the State Revenue Department, another program, because the state funds that, returns the money that is offset from the homestead exemption. You heard one...let me tell you what the Revenue Department could catch before it happened. You heard it happens in North Platte, you heard today about a 25 percent of TIF funds being diverted to development fund and used for a different purpose. I think the Revenue Department would catch that and say, wait a minute, no. State statute says the funds have to be used on the project, you cannot divert them. We had one economic development said they're still doing that, and it's a great plan that they can divert that money. No, no, you can't. The State Auditor caught that in the North Platte plan, said that was not kosher. That's one they could catch. The city of Lincoln extended a TIF on a brewery, I believe, because it was paid off early. They said, well, let's just keep collecting for 15 years and we'll pay some cost around there that we incurred later into the TIF. No, no, no, no. You have to do it, you have to say where the money is being...because of "but for." The "but for" has to be there. You cannot TIF something and you can't use the funds and extend it because it didn't go through the process. The Department of Revenue might have caught that. The city of Omaha TIFfed the Ameritrade after the building was three-quarters up. No, no, no, no. But it has to be "but for." Ameritrade didn't ask for that, the city of Omaha used the funds for the cost around the Ameritrade building. Maybe they would have caught that. LB262 might not be needed if the Revenue Department said, wait a second, that's opened land that is under redevelopment law but doesn't apply to TIF because it's not "and blighted." We might not have that problem. They talk about we could shorten up the time period, we could redefine the county assessors' position in it, but that's the right place to file it because there's only four or five a year. The county assessor looks at it and says, look at the redevelopment plan. Wait a second, they've got an area here, mentioned in here, a legal description that isn't in the redevelopment plan. They catch it right there, because they know. But they're not deciding if the project good, they send it back to them and said, wait a second, you've got something outside some area here that isn't in your redevelopment plan. Those are the things that the Department of Revenue could do. I heard a lot about attorneys, my standard line on attorneys is half of them are wrong every day in the courthouse. They just bill you and they tell you what you want to know, what you want to hear.

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The Department of Revenue are good public officials, and they can say, wait a minute, this doesn't work under existing TIF law. It's that simple. They're not going to decide if it's a good project or a bad project, of how many jobs it has. They're going to look and say, well, this doesn't...this is land outside the area. You're using the money it says here for some purpose that's not in the statutes. That's what they're going to tell them. They're going to help them, they're going to give them oversight. We need oversight. There's an awful lot of money being diverted here. And I keep repeating, this is a very powerful tool. One taxing entity that we created, the cities, and the people gave an exception to them, property taxes, that they have control of property taxes that should go to the schools and the county and themselves and the NRDs. They need oversight. The end does not justify the means. Yes, we like jobs; yes, we like new buildings. That's free markets, that should happen. What I've heard today is I lost a lot of faith in the free market system. Developers develop, if they don't have TIF, I guess they're going to stay home, they're not going to develop. HDR isn't going to expand, Ameritrade wouldn't be built, a brewery wouldn't be built, Menards in North Platte wouldn't have been built. It's being used by real estate speculators and developers for extra cash. And I'll repeat the one in North Platte. I loved your question, Senator Wayne. That blighted area should exist in advance. In North Platte, some speculators bought an 80 acre alfalfa field, went to the city, got it blighted because they were talking to Menards, told Menards here's some blue sky. You pay us more for this land and we can get you TIF because of our connections in town. They paid \$500,000 for that alfalfa field, two years, two and a half years later they sold to Menards for \$3.5 million. That's what the Revenue Department should stop, that. And by the way, you can tell some people in the upper echelons that the economic development in North Platte don't like me. Small businesses elected me, businesses in town elected me. So the taxpayers, the citizens of North Platte agree with me. I've been running on this for years as a taxpayer opponent, testifying at TIF hearings. The citizens of Lincoln County know where I stand and they elected me. Thank you. [LB597]

SENATOR WAYNE: Thank you. Senator Crawford. [LB597]

SENATOR GROENE: Any questions? I'm sorry, I took your job again, Senator Wayne. [LB597]

SENATOR WAYNE: That's all right, I get to your committee, I'm going to ask questions too. [LB597]

SENATOR GROENE: Fair is fair. [LB597]

SENATOR CRAWFORD: I wondered if you would speak to why the county assessor has a role if most of the intent talks about state oversight. So why is the county involved, and it does look like really the county assessor has this chance to determine if it's pursuant to redevelopment plan, which... [LB597]

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SENATOR GROENE: Well, I, like I said, I perceived that to mean that they look at the development plan, which area is blighted in the community and you say, yes, this fits in that area. Maybe we can clean up the language, there ought to be a time period put in here. But I'm not concerned about 45 days or 90 days, they've been talking about that hotel downtown for a long time already in Lincoln. That's a good TIF, by the way, it's in an old part of town. Innovative (sic) Campus is a lousy one. Here's another one the Revenue Department should figure, can you TIF government land? Innovative (sic) Campus is owned by the University of Nebraska. The developer will own the project, the building on that government land. Can we TIF government land? How can government land be blighted? That's a question the Revenue Department might figure out or their attorneys or whatever. But those are all a lot of questions that we do that the end justifies the means. But I agree with you, Senator Crawford, that we need to clarify better what...it's just a pass-through. You go here, most places they might get...I don't think Omaha or Lincoln would get more than 20 or 30 applications a year. Maybe more, maybe there's more than that. I hope not. I hope they're not giving the farm away on property taxes. [LB597]

SENATOR CRAWFORD: But just add an extra county role, a county responsibility. [LB597]

SENATOR GROENE: Yeah. The county should know. The county assessor should know a project. That's the other thing, it's accountability. The county assessor should know this is happening, that this is in the process, so that they know that there might be a big chunk of property coming on the tax rolls that aren't going to show up at the revenue going to the schools and the county and stuff. It's a good check. [LB597]

SENATOR CRAWFORD: You could see how that could become political, though? County assessor, elected, and municipality. Yeah. [LB597]

SENATOR GROENE: Mayors are elected, city councilmen are elected. And by the way, look at some of the bigger offices when you're talking about crony capitalism. Look at the accountability and disclosure and see where the money comes from on some of the people running for office. So that's fair game in politics, I understand that. That's why we have checks and balances in America, and there isn't any in TIF right now. [LB597]

SENATOR WAYNE: Any other questions? Well, Senator Groene, thank you for today. I will say that, and this is from me talking to Ms. Rex and Trevor, legal counsel, I keep pressing the issue of...I don't think you're wrong on many of these issues. We have to just find the solution that works for a little bit of everybody. We just have to figure out how to make it happen and I look forward as committee Chair to working with you on those solutions. [LB597]

SENATOR GROENE: Thank you. [LB597]

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SENATOR WAYNE: Any other questions? Thank you. Thank you for your time. That concludes the hearing on LB597, and that concludes today's public hearings. [LB597]